

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO.84 OF 2018

Aarti Vijay Menon	...Applicant
vs.	
Vijay Satyam Menon	...Respondent

Ms. Jyoti P. Jadhav, for the Applicant
Ms. Merlyn Monteiro, for the Respondent

CORAM : M. S. SONAK, J.

DATE : MARCH 11, 2019

ORAL JUDGMENT

. Heard Ms. Jyoti Jadhav, learned counsel for the Applicant and Ms. Merlyn Monteiro, learned counsel for the Respondent.

2. This is an application seeking transfer of proceeding in H.M. Petition No. 1327 of 2017 pending before the learned Civil Judge Senior Division at Pune to the Family Court at Bandra, Mumbai.

3. This Application has been filed by the wife who is the Defendant in H.M.Petition No. 1327 of 2017 by which the Respondent-husband has prayed for restitution of conjugal rights. The record indicates that the Applicant is staying in Santacruz, Mumbai along with her four year old daughter. Ms. Jyoti points out that even the parents of the Applicant have since expired. The Applicant stated that her four year old daughter has been admitted

into Montessori school in Mumbai.

4. Ms. Monteiro, learned counsel for the Respondent points out that Respondent husband has applied for restitution of conjugal rights. She points out that the Applicant is harassing not only the Respondent but also his parents. She submits that this is evident from the fact that the Applicant instituted complaint under section 498(A) of Indian Penal Code on the basis of the same not only caught the Respondent but also Respondent's aged parents arrested.

5. At this stage, it will not be appropriate to make any observation as regard the allegations of harassment made by the Applicant. However, the transfer application is liable to be allowed taking into consideration the fact that the Applicant is staying in Mumbai along with her brother and further circumstance that the minor daughter is schooling in Mumbai.

6. Normally in case of this nature, the Respondent could have been put to terms with regard to meeting the expenses for travel between Mumbai and Pune, however, taking into consideration, the circumstance that the minor daughter is staying with the Applicant, the interest of justice will be made to the proceeding are transferred to Bandra instead of requiring the Applicant to attend

the proceeding at Pune.

7. Therefore, without going into issue of allegation of harassment which both parties makes against each other, this Petition is allowed.

8. The proceeding in H.M.Petition No. 1327 of 2017 pending before the Civil Judge Senior Division at Pune are transferred to the Family Court at Bandra, Mumbai.

9. The parties now to appear before the Principal Judge, Family Court at Bandra, Mumbai on 8th April, 2019 at 11.00 am.

10. In the meanwhile, the Registry to send appropriate writ/intimation to the learned Civil Judge Senior Division at Pune directing H.M.Petition No. 1327 of 2017 to transmit the record and proceeding in the said Petition to the Family Court at Bandra.

11. This Petition is disposed of with the aforesaid terms.

12. There shall be however no order as to cost.

13. The issuance of writ is expedited.

(M. S. SONAK, J.)