

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISCELLANEOUS CIVIL APPLICATION NO.100 OF 2021

Mohini Atul Kadam	.. Applicant
Versus	
Atul Shantaram Kadam	.. Respondent

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Mr. Prasad P. Kulkarni i/b Paras Yadav and Sumant Patale for the applicant.

Mr.Naveen Sharma for the respondent.

CORAM: BHARATI DANGRE, J.
DATED : 14th DECEMBER 2021

P.C:-

1 The applicant wife is seeking transfer of Petition A No. 591 of 2020 filed by the respondent husband in the Family Court at Pune invoking Section 13(1)(ia) of the Hindu Marriage Act, for divorce. The applicant wife has also instituted Criminal Miscellaneous Application No. 133 of 2020 in the Court of Judicial Magistrate First Class, Kalyan under the provisions of Domestic Violence Act, 2005.

2 The applicant is residing at Post Shivani, Taluka Kadegaon, whereas the respondent is residing in Pune and the learned counsel for the respondent state that he is in employment of Pune Municipal Corporation.

3 The marriage between the applicant and the respondent being solemnized in the year 2012, a child is born in the year 2013. Since the marriage did not serve well for both of them, the distinct proceedings were instituted by the respective parties, as mentioned above.

4 The ground which is pressed in service by the applicant in seeking transfer of the proceedings filed by the husband to the Court of Civil Judge, Sr Division, Vita, are set out in the application and the foremost ground is inconvenience and unaffordable financial burden on every visit to Pune which is approximately 250 kms from her village Shivani. It is expressed that she will have to incur expenditure of Rs.3,000/- of each date for hearing, and the financial position of the applicant's parents do not permit to incur such huge expenses. Another difficulty posed is the child who is aged 8 years, who will be required to also travel along with her. On the contrary, it is prayed that since village Shivani comes under Taluka Kadegaon which is located at a distance 16 kms from the Civil Court at Vita, the convenience demand that the proceedings are transferred to the said Court.

5 Heard learned counsel for the applicant and learned counsel for the respondent.

Counsel for the respondent has fairly stated that as far as the financial burden is concerned, he is ready to share the burden of the wife, undertaking the travel to Pune to attend the

proceedings filed by him. As far as the child is concerned, it is informed that the son is aged 8 years and therefore, since the applicant is residing with her parents, the son can be left back with the parents and considering his age, he is capable of managing his own affairs, in absence of his wife for a day or so.

6 I am satisfied with the contention of the learned counsel for the respondent who has offered to bear the burden of the transport of the applicant in attending the proceedings. If the proceedings are continued in the Family Court at Pune, it is also possible that at times, when the facility for video conferencing can be availed for the purpose of examination/cross-examination of the applicant. Barring the days when she has to remain present before the Court, her presence on every date of hearing in the Family Court is not necessary. It is informed that the applicant is yet to file written statement in the Hindu Marriage Petition in the Family Court at Pune. In such circumstances, by fastening the liability of bearing the transportation expenses on the respondent husband in attending the proceedings, I am not in favour of entertaining the application by transferring the proceedings from the Family Court, Pune to the Court of Civil Judge, Sr. Division, Vita.

Another reason for rejecting the transfer is the Family Court which is specially equipped to deal with the Family matters, can expeditiously dispose of the said proceedings, since its jurisdiction is limited to family matters, whereas it is a normal

experience that the Court of Civil Judge, Jr.Division/Sr.Division are also burdened with other regular work which may cause delay in conclusion of the proceedings.

7 Miscellaneous Civil Application is therefore, dismissed, declining transfer as sought for, subject to an undertaking that the respondent – defendant shall pay the cost of conveyance to the applicant on every date of hearing, when she attend the Family Court at Pune. The amount shall be remitted to the applicant on submission of bill of expenses incurred by her.

8 The Family Court, Pune is requested to expedite the proceedings in Petition No. A 591 of 2020 and shall make an endeavour to dispose off the proceedings within a period of one year from 1st January 2022.

Needless to state that both the parties shall render their co-operation to the learned Judge in disposing off the Petition.

SMT. BHARATI DANGRE, J