

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISCELLANEOUS CIVIL APPLICATION 120 OF 2021

Smt.Amruta Akshay Nikte .. Applicant
Versus
Akshay Anilkumar Nikte .. Respondent

...

Mr. Ram Singh for the petitioner.

CORAM: BHARATI DANGRE, J.
DATED : 13th DECEMBER 2021

P.C:-

1 Though the respondent husband is served, he has failed to put an appearance and even on the earlier date, i.e. on 25th October 2021, the application was required to be postponed.

2 Today also, none represent the respondent.

3 Heard learned counsel for the petitioner who is seeking transfer of Marriage Petition No.A-134 of 2021 filed by the respondent husband in the Family Court at Pune. The applicant wife has instituted D.V. Case No.231 which is pending in the Court of First Class Judicial Magistrate, Thane since 2020.

4 On hearing the learned counsel for the applicant and on perusal of the application, the grounds set out for transfer is that the mother of the applicant is a senior citizen and suffering from health problem and her brother is differently able and she has to take care of both of them.

5 The respondent husband is an Engineer and as per the application, he is working at Pune in the said capacity.

6 Applying the principle of *dominus litus*, unless and until the inconvenience to the wife is demonstrated by taking into account the surrounding circumstances, invocation of jurisdiction under Section 24 of the Code of Civil Procedure, cannot be sustained.

Here is an applicant who is the house wife and has no responsibility, barring the one which is projected in paragraph no.14. In any case, when she was married and was cohabiting with the husband, mother and brother had taken care of themselves. Attending the proceedings in the Court at Pune which would contemplate a journey of 150 km one day, cannot be considered to be of extreme inconvenience. Since it is alleged by the applicant that the respondent is an Engineer and he earns approximately Rs,2,50,000/- per month as the salary, the respondent husband shall arrange for the expenses of the travel of

the applicant, if necessary, by a private taxi. The respondent shall make the payment on submission of the actual bill of expenses on the next date of hearing before the Family Court at Pune.

This is not a case where the transfer can be allowed by way of right, since the principle of *dominus litus* permit the party to institute proceedings, at the place of his choice and since the applicant also cohabited with him in Pune, he has instituted the proceedings therein.

7 Application is therefore dismissed with the direction to the respondent husband to arrange for the expenses of the travel undertaken by the applicant to attend the proceedings filed in the Family Court at Pune.

SMT. BHARATI DANGRE, J