

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO.98 OF 2021

Aarti Rahul Kadkade .. Applicant

Vs.

Rahul Pradeep Kadkade .. Respondent

...

Mr. Shailesh K. More for the Applicant.

Mr. Vijay Kurle i/b Mr. Vilas B. Pawar for the Respondent.

...

CORAM : SMT. BHARATI DANGRE, J.

DATED : 30TH SEPTEMBER, 2021.

P.C:-

1. By the present Misc. Civil Application, the Applicant-wife seeks transfer of the divorce petition bearing Petition No.A-1095 of 2021 filed by Respondent-husband in the Family Court at Bandra, Mumbai, to the Family Court at Nashik.

2. Heard learned counsel for the Applicant and learned counsel for the Respondent.

3. The submission advanced on behalf of the Applicant is to the effect that the marriage of the Applicant and the Respondent was solemnized in the month of January, 2016 and on account of the discord between the two, the Applicant returned to Mumbai, where her parents are staying along with her son in January, 2021. Now, she has taken a decision to shift to Nashik, where her grandparents are staying and it is her submission that her son, who is a toddler, has been admitted in a pre-school for the Academic Year 2021-22 and a receipt reflecting admission effected in the month of June, 2021 in a pre-school in Nashik is placed on record. It is urged on behalf of the Applicant that she has also instituted proceedings under the Domestic Violence Act against the Respondent before the Court at Nashik and the convenience demands that the proceedings filed by the Respondent-husband in the Family Court, Bandra is transferred to the Family Court, Nashik.

4. Learned counsel for the Respondent-husband vehemently oppose the application and submits that the respondent is presently staying in Muscat and, it is infact, the Applicant, who is responsible for the wear and tear of the marriage. He would submit that the application is preferred with a malafide intention to harass the Respondent.

5. On hearing learned counsel for the Applicant and learned counsel for the Respondent, I am inclined to allow the

AJN

application on a simple ground that the Respondent-husband is staying outside the country and he will have to visit India for attending the proceedings. It would hardly make any difference for the Respondent to attend to the proceedings in Mumbai or Nashik. The difficulty expressed by the Applicant will have to be given due consideration since she has a baby boy, aged 3 years, and travelling from Nashik to Mumbai, though is not difficult in ordinary circumstances, but giving the care of the baby in the custody of grandparents pose some difficulty. Sufficient justification has been given in making the application for transfer of the proceedings from Mumbai to Nashik. In such circumstances, the application deserves to be granted by transferring Petition No.A-1095 of 2021 from the Family Court Bandra to the Family Court at Nashik. Learned Principal Judge, Family Court, Bandra to take immediate steps to transfer Petition No.A-1095 of 2021 to the Family Court at Nashik at the earliest.

6. The above Misc. Civil Application is made absolute in the aforesaid terms.

[SMT. BHARATI DANGRE, J.]