

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISCELLANEOUS CIVIL APPLICATION NO.132 of 2021

Varsharani Amit Dhole	.. Applicant
Versus	
Amit Sunil Dhole	.. Respondent

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Mr.Hrishikesh S. Shinde with Akash A. Dethe for the applicant.
Mr.Abhitanshu Khare for the respondent.

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

P.C:-

1 By the present Miscellaneous Civil Application, the petitioner wife is seeking transfer of Petition A (Case) No. 102755 of 2018 filed by the respondent husband in the Family Court at Bandra, Mumbai to the Family Court at Solapur where the proceedings filed by her for restitution of conjugal rights vide Petition No. A(Case) No. 99 of 2020 is pending.

2 The marriage between the parties was solemnized in the year 2012 and a daughter, aged 5 years, is born out of the said wedlock. As the relationship between the two did not work out smoothly, the respondent moved to Mumbai and instituted

proceedings for divorce in the Family Court at Bandra, whereas the applicant continued to reside with her in-laws in Solapur.

3 The difficulty posed which justify invocation of power under Section 24 of the Code of Civil Procedure by this Court is the travel which would be required to be undertaken by respondent from Solapur to Mumbai and being accompanied by a daughter who is aged 5 years, and she will have to drag the parents of the respondent into it. In order to avoid the said inconvenience, the transfer is sought, also pleading that she has no financial resources to undertake the journey which is approximately 400 kms one way, which would necessarily warrant in a night stay with the toddler being in her arm, the applicant would be placed in a very inconvenient position.

In these circumstances, I am inclined to grant the application and transfer the proceedings filed by the husband to the Family Court at Solapur, where the proceedings for restitution of conjugal rights are already pending.

4 As far as the proceedings in Petition No.A (Case) No.102755 of 2018 is concerned, it is informed by the counsel for the applicant that on summons being issued in the year 2019, the order to proceed ex-parte was passed, but it has been set aside and case is still scheduled at a very nascent stage, being the written statement being recently filed along with application for

maintenance. The respondent husband has filed his evidence affidavit in the Family Court at Bandra.

In the wake of the aforesaid, the same Court where the Restitution Petition filed by the wife is pending shall be allotted the Hindu Marriage Petition No.102755 of 2018 and the proceedings can very well be concluded within a period of one year from today. It is also made clear that if the facility of video conferencing is available in the said Court, it shall be put to use and the evidence/cross-examination of the respondent can be recorded through video conferencing. However, if such a facility is not available, then the physical presence on the necessary dates of examination or cross-examination shall not be dispensed with. Since the proceedings are directed to culminate within the stipulated period, parties are directed to render their co-operation. Necessarily, Miscellaneous Civil Application is allowed in terms of prayer clause (a).

5 Proceedings in Petition No.A 102755 of 2018 pending in the Family Court at Bandra, Mumbai shall be transferred to the Family Court at Solapur, forthwith.

SMT. BHARATI DANGRE, J