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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 21 OF 2020

WITH

MISC. CIVIL APPLICATION NO. 18 OF 2020

WITH

MISC. CIVIL APPLICATION NO. 12 OF 2020

MR. MANDAR PRAKASH DHAS

....APPLICANT

V/s.

**MRS. MADHURA @ MANDODARI
MANDAR DHAS**

.....RESPONDENT

Mr. Ajinkya M. Udane for the applicant

Mr. Prosper D'Souza for respondent in all matters.

CORAM : NITIN W. SAMBRE, J.

DATE: AUGUST 18, 2021.

P.C.:

1] I have heard respective counsel for sometime.

2] Proceedings initiated by the respondent-wife at Solapur are sought to be transferred to Pune on the ground that non-applicant wife has shifted and is residing at Pune with kids i.e. two children.

According to Mr. Udane, learned counsel for the applicant, Restitution of Conjugal Rights proceedings, Domestic Violence Act proceedings and proceedings under Section 125 of Code of Criminal Procedure, 1973 were initiated by non-applicant wife at Solapur subsequent to applicant initiated divorce proceedings at Pune Family Court. As such, according to him, all these proceedings initiated by respondent-wife are required to be transferred from Solapur Court to Pune Family Court to be tried together. He would also invites attention of this Court to access order passed by the Judge, Family Court, Pune wherein respondent wife is directed to grant access on every second and 4th Saturday and Sunday. She is also directed to drop children to the place of applicant-husband on the aforesaid days obviously at Pune where the applicant is residing.

3] I am informed that children born out of the wedlock are in the custody of non-applicant wife and are taking education in Pune. As a consequence, non-applicant is also residing at Pune.

As such, it is prima facie demonstrated by the applicant that non-applicant wife alongwith children is residing at Pune. Such

contention are not controverted by the non-applicant.

4] In the aforesaid background, in my opinion, no purpose will be served, by keeping the proceedings pending at Solapur Court in the light of fact that non-applicant herself is residing with children at Pune. Rather it will be equally convenient for non-applicant to attend the proceedings at Pune.

5] Learned counsel for the non-applicant wife submits that matter be adjourned as non-applicant is not keeping well and she intends to physically witness proceedings.

6] In my opinion, such prayer need not be considered and granted in the background to the fact that this Court is of the opinion that counsel for respondent is well versed with the matter and the applications are pending consideration since 2019.

Though counsel for non-applicant wife has admitted that it is more convenient to non-applicant to attend the proceedings at the place where they are presently pending however, in view of above,

said contention are rejected.

7] As such, all these three applications, though objected by the learned counsel for non-applicant wife on the ground of failure to establish the case under Section 24 of Code of Civil Procedure, 1908, are ordered to be transferred.

8] Applications are allowed in terms of prayer clause (a) which reads thus:

M.C.A. No. 21/2020:

(a) That this Hon'ble High Court be pleased to transfer the petition bearing Criminal M.A. No. 3094/2018 pending in the J.M.F.C. Court, Solapur to J.M.F.C. Court, Pune, Maharashtra.

M.C.A. No. 12/2020:

(a) That this Hon'ble High Court be pleased to transfer the petition bearing No. P.A. No. 164/2018 pending in the Family Court, Solapur to Family Court, Pune, Maharashtra.

M.C.A. No. 18/2020:

(a) That this Hon'ble High Court be pleased to transfer the petition bearing Criminal P.E. No. 36/2018 pending in the Solapur Family Court to Family Court, Pune, Maharashtra.

9] Record and proceedings pending in the courts at Solapur shall immediately be transmitted to the Family Court, Pune.

[NITIN W. SAMBRE, J.]