

\$~

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision:- 03.02.2021

+ **MAT.APP.(F.C.) 19/2021**

RAKHEE BAHL

..... Appellant

Through Mr.Osama Suhail with Ms.Surabhi
Diwan, Advs.

versus

PANKAJ BAHL

..... Respondent

Through Mr.Shashank Agrawal, Adv.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

VIPIN SANGHI, J (ORAL)

C.M.No.4004/2021

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

MAT.APP.(F.C.) 19/2021 & C.M.No.4003/2021

1. The present appeal is directed against the order dated 04.01.2021 passed by the learned Principal Judge (South), Family Court, Saket, New Delhi in CS No.20/2010, wherein the appellant/plaintiff sought anti-suit injunction against the defendant/respondent herein to seek restraint against him for proceeding with divorce petition filed by him as case no. FC/D-1104/2020 titled as *Pankaj Bahl vs Rakhee Bahl* to seek dissolution of

marriage before the Family Justice Courts of the Republic of Singapore.

2. By the impugned order, the Family Court has dismissed the application preferred by the appellant/plaintiff under order 39 rule 1 & 2 CPC to seek interim restraint against the defendant/respondent proceeding with the said suit.

3. The interim application was initially taken up by the learned Principal Judge(South), Family Court, Saket on 12.10.2020. On the said date, while issuing summons in the suit and notice in the interim application to the defendant/respondent, the learned Judge granted an injunction till the next date of hearing, restraining the defendant/respondent from, in any manner, prosecuting, pursuing or going ahead with his divorce action or any other proceedings as emanating from the matrimony between the parties in the aforesaid case pending in the Singapore Court.

4. The impugned order has been passed after hearing the counsels and after the defendant/respondent was served and had filed his reply.

5. The plea taken by the appellant/plaintiff before the Family Court was to the effect that the proceedings filed by the respondent to seek divorce were premised on the grounds of irretrievable breakdown of marriage, which is not a ground available under the Hindu Marriage Act, 1955. Both the parties being Hindus and having got married at Delhi, it was contended that they were governed by the said Act and, therefore, even if the respondent were to obtain a decree of divorce on the ground of irretrievable breakdown of marriage in Singapore, the same would not be recognized in India since the same is not a ground available for obtaining divorce under the Hindu Marriage Act.

6. The defendant/respondent contested the suit and sought vacation of

the interim injunction granted on 12.10.2020 by filing an application under order 39 Rule 3 & 4 CPC. It was pointed out by the defendant/respondent that the parties had been residing continuously in Singapore since the year 2012; the present suit had been filed by the plaintiff/appellant after she had already participated in the proceedings before the Singapore Court for about 5 months; she had also moved an application in those proceedings to seek maintenance after engaging services of a law firm styled as Gloria James Civetta & Co.; she was continuously residing in Singapore and, in fact, even when she moved the aforesaid suit with interim application to seek injunction, she was a resident of Singapore.

7. We find that in the impugned order, the learned Principal Judge, Family Court has taken note of the law laid down by several decisions of the Supreme Court including, in *Y.Narasimha Rao v. Y. Venkata Lakshmi (1991) 3 SCC 451*, *Modi Entertainment Network v. WSG Cricket PTE Ltd., 2003(4) SCC 341*, *Dinesh Singh Thakur v. Sonal Thakur., AIR 2018 SC 2094* on the aspect of grant of anti-suit injunction.

8. The learned Principal Judge held that since the parties were domiciled in Singapore, where they have been continuously residing since 2012, the appellant/plaintiff had not made out a prima facie case for grant of injunction to restrain the respondent from proceeding with the divorce petition in Singapore.

9. Before us, the submission of learned counsel for the appellant is that the appellant would be severely prejudiced in case the divorce proceedings are allowed to continue in Singapore Courts, since it is likely that divorce would be granted without the appellant being granted any maintenance, or alimony, as also the custody of the children.

10. We have considered the submission of learned counsels and perused the record. Firstly, the aspect as to what are the rights of the parties in a matrimonial dispute according to the law of Singapore can hardly be a reason for us to grant the injunction as prayed for, for the simple reason that the parties are domiciled in Singapore and are continuously residing there since the year 2012. This position is not even contested by the appellant before us. In fact, her fear is that she would not be able to continue to reside in Singapore, if divorce is granted. She has been, and continues to remain in Singapore where the parties have made their home. In fact, even when the suit in which the impugned order was passed was filed, the appellant was residing at Singapore and continues to reside there as on date. Secondly, there is no basis for the appellant to claim that she would be unfairly treated by the Courts at Singapore. Pertinently, she had also moved an application before the Court at Singapore to seek maintenance; she had availed services of counsels in Singapore and, therefore, we are unable to accept her claim that she would be prejudiced in any manner on account of her being the wife in the matrimonial dispute before a Singapore Court. We may also note that the appellant had moved an application challenging territorial jurisdiction of the Court at Singapore, which application was rejected and the said order has not been assailed any further by the appellant.

11. In our view the learned Principal Judge, Family Court has rightly rejected the application preferred by the appellant/plaintiff under order 39 Rule 1 & 2 CPC. To reiterate, the parties are permanent residents of Singapore and have been residing there since 2012 and should, therefore, sort out their matrimonial disputes before the local court in Singapore. Even otherwise, the Courts in India cannot be said to be forums which would be

convenient to either of the parties. Enforcement of orders passed by the Courts in India- when the parties; their children, and; their assets/properties are situated in Singapore, would be a practical impossibility.

12. We do not find any merit in the appeal.

13. The appeal is accordingly dismissed along with pending application.

VIPIN SANGHI, J

REKHA PALLI, J

FEBRUARY 3, 2021

sr