

Andreza

IN THE HIGH COURT OF BOMBAY AT GOA

TRANSFER APPLICATION NO. 3 OF 2021

Shalini S. Rao

... Applicant

Versus

Sreeniwas Kalidas Rao

... Respondent

Ms. A. Agni, Advocate *with A. Harihar, Advocate for the Applicant.*

CORAM: A. K. MENON, J

DATED: 12th April 2022

P.C.

1. Affidavit of service taken on record.
2. This is a transfer application filed by the Applicant/wife seeking transfer of Matrimonial Petition No. 204/2021/A, presently pending in the Family Court at Bandra, to Civil Judge Senior Division at Mapusa. An ad-interim stay has been operating since 01.03.2022. On 01.03.2022, this Court noted that service was complete. That order clearly specifies that matter was adjourned to 16.03.2022 as a matter of last chance for the Respondent to appear. The Respondent failed to appear on 16.03.2022 and ad-interim stay was continued. The matter was adjourned to 23.03.2022. On 23.03.2022, the ad-interim

stay was continued till 05.04.2022 and the Court directed the Advocate for the Applicant to serve private notice to the Respondent informing him of the Order and the fact that this matter was listed on 05.04.2022. On 05.04.2022, the matter was adjourned to 12.04.2022. The Applicant's Advocate has since informed the Respondent of the fact that this transfer application is now fixed today i.e. 12.04.2022 and requesting him to remain present. Copy of the email is tendered across the bar. It is seen to have been sent on 06.04.2022 at 1.07 p.m. I have therefore taken up the application for final hearing and disposal.

3. Respondent is absent on call. No appearance has been entered. It appears that since the Respondent is not interested in contesting this application.

4. Learned Counsel for the Applicant submits that the Applicant was married to the Respondent no.1 on 01.12.1999. There are two children of the marriage. The first, born on 10.10.2001 and the second, born on 11.06.2005. The second child is still a minor studying in Sangolda, Goa. The second child stays with the Applicant. On account of differences between the parties hereto, the Applicant filed domestic violence proceedings against the Respondent, the

Respondent's parents, sister and brother in law. Those proceedings are pending. Certain orders have been passed in those proceedings. The divorce proceedings are filed by the respondent in or around November 2019. It is the case of the Applicant that the Matrimonial Petition has been filed in the Family Court at Bandra, in Mumbai and that she is unable to attend those proceedings owing to her commitment to her minor child who is attending school at Sangolda Goa, no doubt, being funded by the Respondent who has been regularly paying amounts directed to be paid in the DV proceedings. It is the case of the Applicant today, that she stays in a rented apartment in Goa, is a housewife and has multiple health issues. She is unable to attend to those proceedings in Mumbai.

5. Learned Counsel has today pointed out that she has multiple medical issues that require to be attended to regularly in Goa. Moreover, the second child is attending school in Sangolda, Goa, and these circumstances do not make it convenient for her to regularly attend the divorce proceedings in Mumbai. My attention has been drawn to various medical reports which have been filed along with transfer application. The Applicant has also pointed out that the cost of litigation also is far higher in Mumbai. If she has to regularly travel to Mumbai to attend to divorce proceedings which she intends

to contest, it would involve enormous expenditure and also grave inconvenience to her minor child. Learned Counsel therefore submits that she has no option but to seek transfer of these proceedings.

6. Respondent on the other hand, is said to be a Marine Engineer employed with a Merchant Shipping Organization and is able to attend to divorce proceedings in Goa, if the matter is so transferred. Ms. Agni submits that in view of the immense difficulty in contesting proceedings repeatedly travelling to Mumbai, hereafter it would be appropriate that the proceedings filed in the Family Court in Bandra, Mumbai be transferred to the Court in Mapusa.

7. The Respondent has chosen not to contest this application. The Applicant's Counsel states that after service of the application, there is no response whatsoever from the Respondent-husband. The Respondent has not controverted any of the factual statements in the application.

8. Having heard the learned Counsel for the Applicant and having perused the record and in view of the fact that there is no opposition to transfer, I find no reason to decline this application.

9. In view of the above, I pass the following Order :

(i) The application is allowed in terms of prayer clause (a), which reads as under :

“(a) The transfer petition be allowed and the Hindi Matrimonial petition no. 204/21/A which is presently pending before the Family Court Bandra be transferred to the Court of Civil Judge Senior Division at Mapusa.”

(ii) Ad-interim Order dated 01.12.2021 shall continue to operate.

(iii) The Family Court at Bandra, Mumbai, is accordingly directed to transfer the proceedings to the Court of the Civil Judge, Senior Division at Mapusa, Goa.

(iv) Petition shall be listed before the Court of Civil Judge Senior Division at Mapusa, Goa on 20.06.2022.

(v) Application stands disposed.

A. K. MENON, J