

H. H. Sawant.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO.241 OF 2022

Vaishnavi W/o Dhiraj Parde

.. Applicant.

Versus

Dhiraj S/o. Prakash Parde

.. Respondent.

.....

- Mr. Swapnil S. Dhage, for Applicant.
- None for Respondent.

CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 02, 2022

P.C.:

- 1.** Heard Mr. Dhage, learned Advocate appearing for the Applicant.
- 2.** Though served, none appears for the Respondent. Affidavit of service dated 30.11.2022 is taken on record which shows that Respondent has been served.
- 3.** Perused the Application. This is an Application filed under Section 24 of the Code of Civil Procedure, 1908 by the Applicant – wife.
- 4.** Parties got married on 28.04.2019. Respondent – husband initiated proceedings for dissolution of marriage / divorce on the file of Civil Judge Senior Division, Satara of which transfer is sought by Applicant to learned Family Court Latur, District-Latur where she resides with her parents.
- 5.** Perused grounds of hardship which are pressed in paragraph No.6 of the Application. As Applicant – wife will be required to travel from Latur to Satara to attend the proceedings, it will cause prejudice and hardship to her.

6. It is well settled by a catena of judgments of the Supreme Court as well as this Court that the primary concern in such matters is the convenience of the wife.

7. The cardinal principle for exercise of power under Section 24 of CPC is that the ends of justice demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever the Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of either of the parties, the social strata of the spouses and behavioural pattern, their standard of life antecedent to marriage and subsequent thereto and circumstances of either of the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Generally, it is the wife's convenience which must be looked at by the Courts, while deciding a transfer application and merits of the case need to be considered.

8. In the present case if the Applicant - wife is forced to go from Latur to Satara, it would amount to denial of justice to her. It is settled principal of law that justice is not only to be done but it should also appear to have been done. Hence, to strike a balance between the parties with a view to do complete and substantial justice and proceeding on a holistic view of the matter, I am of the considered view that it would be just and expedient to transfer the proceeding filed by Respondent-Husband from Satara to Latur.

9. Since the contentions are not controverted, in my opinion, ground of hardship has to be considered in favour of the Applicant, as one way distance between Satara and Latur is 350 kilometers.

10. As such, Application is allowed and disposed of in terms of prayer clause (b) which reads as under:-

“(b) The proceedings of the Marriage Petition bearing No.17 of 2022 pending before the Learned Civil Judge, Senior Division, Satara filed by the Respondent/Husband for divorce against the Applicant/Wife may kindly be transferred for further adjudication from the Learned Civil Judge, Senior Division, Satara to Learned Family Court Latur, District-Latur”

[MILIND N. JADHAV, J.]