

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 72 OF 2022

Riddhima Omkar Mishra @ Riddhima Suresh
Shinde

.. Applicant

Versus

Omkar Kaushal Mishra

.. Respondent

-
- Ms. Devyani Kulkarni, Advocate for the Applicant.
 - Mr. Prasanna Gupte, Advocate for the Respondent.
-

CORAM : MILIND N. JADHAV, J.

DATE : NOVEMBER 28, 2022.

P.C.:

1. Heard.

2. Parties got married on 07.07.2018. Respondent – husband initiated proceedings for dissolution of marriage / divorce bearing H.M.P. No.372 of 2020 rights pending on the file of Civil Judge Senior Division, Panvel of which transfer is sought by Applicant to Family Court, Bandra.

3. Applicant resides in Andheri with her parents. She is unemployed. Respondent is present in Court. Mr. Gupte informed the Court that he is in private service.

4. Perused ground of hardship is pressed in paragraph Nos.15 to 19 of the Application. As Applicant – wife will be required to travel from Andheri to Panvel to attend the proceedings, it will cause

prejudice and hardship to her.

5. 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.

6. 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.

7. In the present case if the Applicant - wife is forced to go from Andheri to Panvel, 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 divorce

proceeding from Panvel to Andheri.

8. Since the contentions are not controverted, in my opinion, ground of hardship has to be considered in favour of the Applicant.

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

“ a) That this Hon’ble Court may be pleased to issue a Writ of Mandamus or any other Writ, Order or Direction in the nature of Mandamus and be pleased to direct the Hon’ble Civil Court at Panvel to transfer all the records and proceedings in the Divorce Petition bearing H.M.P./Petition No.372 of 2020 before the Family Court at Bandra.”

[MILIND N. JADHAV, J.]

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