

R.M. Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 220 OF 2022

Rajesh Shivdatt Bhardwaj

.. Applicant

Versus

Usha Rajesh Bhardwaj

.. Respondent

.....

Mr. Mukesh Subramaniam a/w Mr. Rony Wilson & Ms. Yogika
Subramaniam for Applicant

Mr. Saurabh S. More for Respondent

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CORAM : MILIND N. JADHAV, J.

DATE : 25th November, 2022.

P.C.:

1. Applicant-husband, by way of instant Application seeks transfer of Case No. 30/D.V./2017 filed by Respondent-wife before the Metropolitan Magistrate, 18th Court, Girgaum, Mumbai to the Civil Judge Senior Division, District Thane.

2. I have heard Mr. Mukesh Subramaniam, learned Advocate appearing for Applicant and Mr. Saurabh More, learned Advocate for Respondent. Though affidavit-in-reply has not been filed by Respondent-wife, submissions and objections made on her behalf are noted.

3. Applicant's marriage was solemnized with Respondent on 17.02.2009. A son named Jay was born out of the wedlock in 2011.

Due to differences, Respondent deserted the Applicant and along with her son left his house and shifted to Girgaum, Mumbai in June, 2017.

4. On 19.08.2017, Respondent filed D.V. case bearing No. 30/D.V./2017 before the Metropolitan Magistrate, 18th Court, Girgaum. Respondent also preferred interim application seeking maintenance in the said proceedings.

5. On 31.10.2017, Applicant filed petition for dissolution of marriage bearing No. A-1417/2018 before CJSD, Kalyan. On 5/10/2021 Applicant filed custody petition bearing no. 67/3032/2021 before Civil Judge Kalyan.

6. Applicant has submitted that aforesaid two proceedings filed by him are pending in Kalyan Court. He submitted that the interim application for maintenance was disposed of by order dated 20.03.2018, pursuant to which Applicant was directed to pay Rs. 22000/- per month to Respondent for maintenance of her and the son's maintenance.

7. On behalf of Respondent-wife it is submitted that the proceedings under the D.V. Act were filed by Respondent in Girgaum court as she had shifted there at the then time.

8. It is seen that there is no serious objection raised to the petition. This is primarily because, admittedly both Applicant and Respondent are presently residing in Ambernath, though separately. It is further seen that their son Jay is 11 years old today and attends

Father Agnel Multipurpose School at Ambernath, District Thane. The address in the cause title of the Application show that both parties are residing in Ambernath as on date.

9. In view of the above facts, it would be convenient to both parties if the D.V. Act proceeding is transferred to the court of CJSD Kalyan where the divorce proceeding and custody petition are pending. Such transfer shall also be in the interest of their son-Jay as it will give more time to the Respondent to be with her son.

10. It is undisputed that both Applicant and his wife are residing at Ambernath. Their son is also schooling in Ambernath. Hence, it would be of immense convenience to both parties if the D.V. Act proceeding is transferred from Girgaum Court to Kalyan Court. Hence to do complete and substantial justice and proceeding on a holistic view of the matter, I am of the considered view that it is expedient to transfer the D.V. Act proceedings from Girgaum Court to Kalyan Court.

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

“(a) This Hon’ble Court may be pleased to pass an order transferring the Case No. - 30/D.V./2017 (tilted as Mrs. Usha Rajesh Bhardwaj Vs. Mr. Rajesh Shivdutt Bhardwaj) pending before the Ld. Metropolitan Magistrate’s 18th Court at Girgaum, Mumbai to the Court of the Ld. (S.D.) Kalyan at Kalyan Thane District.”

[MILIND N. JADHAV, J.]

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