

R.M. Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 64 OF 2022

Anuja Sachin Dhone

.. Applicant

Versus

Sachin Pandurang Dhone

.. Respondent

.....

Ms. Manisha Devkar for the Applicant

Mr. T.R. Yadav i/by Mr. Sujeet G. Kurup for the Respondent

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CORAM : MILIND N. JADHAV, J.

DATE : 25th November, 2022.

P.C.:

. Heard.

2. Though served in June 2022, Respondent has not filed reply.

3. Parties got married on 25.01.2015. Respondent – husband initiated proceedings for dissolution of marriage pending on the file of Family Court, Solapur of which transfer is sought by Applicant to Civil Judge Senior Division, Pandharpur, Dist. Solapur, where she resides with her parents. Domestic Violence Act proceedings are filed by Applicant and pending at Pandharpur. Applicant is a housewife with no source of income.

4. Perused the grounds of hardship which are pressed in paragraph No. 13A to H of the Application. There is one issue i.e. girl child aged about four years who is in the custody and care of

Applicant. As Applicant – wife will be required to travel from Pandharpur to Solapur 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 Pandharpur to Solapur, 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 Solapur to Pandharpur.

8. In view of the above, in my opinion, ground of hardship has to be considered in favour of the Applicant, as one way distance between Pandharpur and Solapur is about 80 kilometers. 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 issue appropriate writ, order or direction and / or direction to transfer the matrimonial proceedings bearing Divorce Petition No. A-271/2021 pending before learned Family Court at Solapur, Solapur to the file of learned Civil Judge (Senior Division) at Pandharpur, Dist. Solapur in the interest of justice.”

[MILIND N. JADHAV, J.]

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