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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO. 182 OF 2019**

MRS PRITI RAKESH PARMARApplicant

V/s

MR RAKESH RUPSINGH PARMARRespondent

Mr. Harekrishna Mishra i/b Mr. G. D. Sankpal for the Applicant.

Mr. Pravin Patel for the Respondent.

CORAM: NITIN W. SAMBRE, J.

DATE: JANUARY 10, 2022

P.C.:-

1] This application is taken out by wife, seeking transfer of proceedings being M. J. Petition No.244 of 2018 pending on the file of Civil Judge, Senior Division, Vasai to the file of Civil Judge, Senior Division, Nashik.

2] Mr. Mishra, learned Counsel for the Applicant would invite attention of this Court to the following factual matrix and the grounds.

3] Parties got married on 29/01/2012 at Nashik and a daughter was born out of the said wedlock on 30/04/2013 who is in the

custody of the present applicant. He would further inform that after initial matrimonial discord, since the applicant was intending to reunite with the non-applicant, gave an undertaking in pending matrimonial proceedings on 26/04/2017 which was initiated by the Respondent-husband for divorce and started residing with the non-applicant. He would further claim that the said undertaking was forcefully obtained from the applicant and after the said undertaking, applicant-wife initiated D.V. Act proceedings No.1938 of 2018 on 29/11/2018 which is pending adjudication on the file of Judicial Magistrate, First Class, Nashik. It is informed that Respondent is already attending the said proceedings.

4] In the aforesaid backdrop, Mr. Mishra, learned Counsel for the Applicant would urge that the Applicant will be suffering financial so also physical hardship as she has to attend her minor daughter and the monthly maintenance of Rs 3,500/- per month is not sufficient to cope up with financial pressure of travelling to Mumbai. As such, he would urge that apart from financial hardship, Applicant will suffer physical hardship also.

5] While countering the submissions, learned Counsel for the Respondent would urge that fact about filing of D.V. Act proceedings is suppressed. He would further urge that undertaking dated 26/4/2017 in divorce proceedings being M.J. Petition No.292 of 2016 is not questioned by the Applicant. He has claimed that Respondent-husband is required to look after his aged father who is also added as an accused in D.V. Act proceedings which speaks of very intention of the Applicant. According to him, Respondent-husband is willing to bear travel expenses of the Applicant-wife.

6] Considered submissions.

7] The fact that Applicant gave an undertaking before the Court of Civil Judge, Senior Division, Vasai in M.J. Petition No.292 of 2016, thereby accepting her all defaults is apparently inferred from the contents therein. Fact remains that the said undertaking is not questioned by the Applicant being an undertaking obtained by misleading or forcefully. Be that as it may, fact that non-applicant is also working in Mumbai and he is required to take care of his ailing father is established from the record. He having graciously consented

for bearing travel expenses of the Applicant if she physically attends the proceedings at Vasai is also accepted. That being so, following order is passed.

8] Non-applicant shall deposit an amount of Rs 10,000/- in M.J. Petition No.244 of 2018 within a period of four weeks from today. He shall continue to maintain the said deposit of Rs 10,000/- till final disposal of M.J. Petition No.244 of 2018. The date on which the Applicant attends the said M.J. Petition No.244 of 2018 physically, she will be entitled to withdraw the amount of Rs 5,000/- towards travel and out of pocket expenses.

9] With the above observations, present Application stands disposed of.

(NITIN W. SAMBRE, J.)