

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO.70 OF 2020

Mona Kalpesh Agrawal ..Applicant
Versus
Kalpesh Kailash Agrawal ..Respondent

Mr. Satish Agrawal, for the Applicant.
Mr. Manoj B. Bagal, for the Respondent.

CORAM : NITIN W. SAMBRE, J.

DATE : 31st JANUARY, 2022

PC.

1. The applicant/wife has come out with a following prayer:-

“(a) That this Hon’ble Court be pleased to transfer the entire proceeding in Divorce Petition No.A/55/202 u/s 27(1)(d) of the Special Marriage Act, 1954 filed by the Respondent against the Applicant abovenamed before the Hon’ble Family Court in Pune to the Court of the Hon’ble Family Court, Bandra, Mumbai.”

2. Counsel for the respondent/husband has opposed the prayer for transfer of the proceedings on the ground that the non-applicant/husband is medically indisposed. He has relied on certain certificate issued by Consultant Rheumatologist. According to him, apart from the aforesaid fact the non-applicant is the only person taking care of his aged mother as his father has expired.

3. In the aforesaid background, it is claimed that it is difficult for the non-applicant to travel to Mumbai to attend proceedings.

4. I have considered submissions.

5. Parties hereto got married on 28th February, 2017 and are blessed with a son Prayan, aged about three and half years. The son is in the custody of the applicant/wife.

6. After matrimonial discord, it appears that the proceedings under Section 27(1)(d) of the Special Marriage Act, 1954 are initiated by the non-applicant at Family Court, Pune. The applicant/wife has initiated proceedings under Section 498-A of IPC as also for maintenance. Both the proceedings are pending at the Bombay Court which are attended by the non-applicant.

7. In the aforesaid background, considering the hardship likely to be suffered by the applicant/wife being custodian of the minor son aged about three and half years and the fact that non-applicant is already attending proceedings at Family Court, Mumbai and the Court of Metropolitan Magistrate, Mumbai, the application, in my opinion, deserves to be allowed as prayed.

8. As such, application stands allowed in terms of prayer clause (a).

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9. It is worth to observe that for the convenience of the parties, an endeavour shall be made that all the three proceedings shall be listed on the same date by the concerned Courts.

[NITIN W. SAMBRE, J.]