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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 97 OF 2020

NANDA PRABHAKAR PAGARE @ NANDINIAPPLICANT
RAVINDRA BHOLE

V/s.

RAVINDRA RAMBHAU BHOLERESPONDENT

Mr. Pandit Kasar Advocate for the Applicant
Mr. Vivek Joshi i/b Mr. Vikas B. Shivarkar Advocate for Respondent

CORAM : NITIN W. SAMBRE, J.

DATE: MAY 2, 2022.

P.C.:

1) Transfer of Marriage Petition No. 164/2019 initiated under Section 13 of Hindu Marriage Act for divorce is sought from the file of Civil Judge Senior Division, Kalyan to Family Court to Pune. I am informed that at the behest of present applicant-wife under Section 9 of Hindu Marriage Act, proceedings for restitution of conjugal rights are pending at Family Court at Pune. Ground of inconvenience and hardship is pressed as it is claimed that

Applicant-Wife is receiving treatment for breast cancer, she is custodian of two minor daughters and will suffer hardship. As such, she will suffer hardship, if made to travel. It is also claimed that for avoiding overlapping findings on the same set of facts and evidence, transfer be ordered in the interest of justice.

2) Prayer is opposed on the ground that transfer is not warranted as proceedings at Kalyan are based on cause of action. It is further informed that Applicant-wife is getting maintenance of Rs. 9000/- and independent education expenses were paid.

3) Considered submissions.

4) In response, Counsel for non-Applicant submits that he has no instructions to make a statement that non-Applicant is willing to bear travel expenses of the Applicant for attending divorce proceedings at Kalyan.

5) Apart from above, Applicant appears to be custodian of two daughters and her suffering of health ailment is not in dispute.

6) In this backdrop, ground of inconvenience and hardship is well established in favour of the Applicant.

- 7) It cannot be ruled out that Court at Kalyan and Pune may record overlapping findings on the same set of facts and evidence. As such, case for transfer is made out.
- 8) In the aforesaid background, Application is allowed in terms of prayer clause (a) which reads thus:

“(a) By order of this Hon’ble Court, Marriage Petition No. 164 of 2019 filed and pending on the Board of Learned Civil Judge Senior Division of Kalyan at Kalyan may be transferred to the board of Learned Family Court of Pune at Pune.”

[NITIN W. SAMBRE, J.]