

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 196 OF 2021

Ashwini Ganesh Jangam

...Applicant

VS.

Ganesh Ramesh Jangam

...Respondent

Ms. Pooja S. Phagnekar a/w Nitesh J. Mohite - Advocate for the Applicant
Ganesh R. Jangam -Respondent in-person appeared.

CORAM : S. M. MODAK, J.

DATE : 05th AUGUST, 2022

P. C. :-

1. Heard learned Advocate for the Applicant-Wife and Respondent-Husband in-person.
2. The Respondent-Husband has filed Divorce Petition bearing Hindu Marriage Petition No. 322 of 2019 before the Court of 10th Joint Civil Judge Senior Division, Pune. The Applicant-Wife wants transfer of that Petition to the Family Court, Mumbai. It is for the two reasons. One is considering the present place of residence of the Applicant-Wife at New Panvel, the Family Court at Mumbai will be more convenient than the Matrimonial Court at Pune. Secondly, the Applicant-Wife has filed Petition

under Section 18 of the Hindu Adoptions and Maintenance Act which is registered as M. J. Petition at Family Court at Mumbai.

3. Query is made to the learned Advocate for the Applicant about the Courts which can deal with the maintenance Petition filed under the Hindu Adoptions and Maintenance Act. It is submitted that issue is not relevant for deciding the present transfer application. What is important is convenience or inconvenience of the Applicant-Wife.

4. Admittedly, the Applicant-Wife has not appeared before the Matrimonial Court at Pune. She got knowledge about that Petition from the Pune District Court Website. Copy of the Order dated 07/01/2020 passed by the Matrimonial Court Pune thereby ordering to proceed ex-parte against the wife is placed on record at page no. 12.

5. The Respondent-Husband has strongly opposed the transfer prayer. According to him the place of residence of the Applicant-Wife is in New Panvel and in fact the Mumbai as well as Pune are more or less equally located from New Panvel. It is submitted that it not due to inconvenience this transfer Application is filed but it is for deliberate purpose of harassing the Respondent-Husband. On account of his convenience he submitted that he is having aged parents and his mother is suffering from cancer. He submitted about the adamant attitude of the Applicant-Wife in not attending the Matrimonial proceedings at Pune and steps which the

Respondent-Husband was required to take for effecting service. This can be evidenced from the Order dated 07/01/2020 passed by the Matrimonial Court, Pune. It says that substitute service was effected by way of publication.

6. He also submitted that there is one more proceeding going on in between the parties. It is as per the provisions of Protection of Women from Domestic Violence Act and it is filed by the Applicant-Wife before the Court of JMFC, Panvel. This fact is not disputed. A copy of that application is filed by the Applicant-wife at page no. 13.

7. The Respondent-Husband quoted one more reason. The Applicant-Wife wants the Respondent-Husband to attend various Courts. But it is difficult for the Husband to obtain leave on every occasion and to attend the Court. It is submitted that the Respondent-Husband is conducting all these cases himself whereas the Applicant-Wife has appointed various advocates in all these proceedings. The Respondent- Husband in Order to explain the distance has shown to the Court one paper wherein all these places i.e. Mumbai, Panvel and Pune are being shown.

8. This Court is not inclined to accept the request for transfer made by the Applicant-Wife. It is true that from Panvel one can go to Mumbai as well as to Pune very easily and all means of communication by road and by railway are available. Probably Pune may be situated at some longer

distance from Panvel as compared to Mumbai but modes of transport are available.

9. It is pertinent to note that when the Applicant-Wife can go to Mumbai from Panvel (and particularly when such Petition under Hindu Adoptions and Maintenance Act is not filed before the concerned Court at Panvel though available) she can certainly go to Pune. This Court feels that the reasons offered for the convenience is not acceptable. Secondly, if we read the provisions of the Hindu Adoptions and Maintenance Act, we may find that there is no specific Section dealing with which Court is having jurisdiction. So the jurisdiction will be governed as per the principles laid down in Code of Civil Procedure. It is not for this Court to express any opinion whether family Court at Mumbai will be having jurisdiction under the Hindu Adoptions and Maintenance Act and that Court will certainly look into that issue if any issue is raised.

10. Above observations are made only for determining whether it will be appropriate to transfer Pune proceedings to Mumbai Court. No doubt there is a provision in Section 19 of the Hindu Marriage Act dealing with jurisdiction of a Petition under the said Act. However those principles may not be applicable when Petition under Hindu Adoptions and Maintenance Act is filed.

11. For all these reasons, this Court is not accepting the request for transfer, hence dismissed.

12. The Petitioner wife as aware about the matrimonial proceedings in Pune Court, she may think of appearing before the Pune Court.

[S. M. MODAK, J.]