

H. H. Sawant.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO.181 OF 2022

Pranali Shashikant Rawle

.. Applicant

Versus

Shashikant Dilip Rawle

.. Respondent

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- Mr. Subhash B. Desai, for Applicant.
 - None for Respondent.
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CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 02, 2022

P.C.:

- 1.** Heard Mr. Desai, learned Advocate appearing for the Applicant.
- 2.** Though served as for back in April 2022, no reply has been filed and none appears for the Respondent.
- 3.** Perused the Application. This is an Application filed under Section 24 of the Code of Civil Procedure, 1908 by the Applicant – wife.
- 4.** Parties got married on 07.12.2001. Respondent – husband initiated proceedings for dissolution of marriage / divorce pending on the file of Civil Judge Senior Division, Nashik of which transfer is sought by Applicant to Civil Judge Senior Division, Vadgaon (Maval), Pune, where she resides in her own flat at Vadgaon which is jointly owned by both parties. Applicant is employed in a private job in Vadgaon (Maval). She had also filed D. V. Act proceedings against Respondent in the Court of Judicial Magistrate First Class, Vadgaon

(Maval).

5. Perused grounds of hardship which are pressed in paragraph No.3(v) of the Application. There is one son aged 17 years who is studying in college and Respondent is taking care of him. As Applicant – wife will be required to travel from Vadgaon to Nashik to attend the proceedings, it will cause prejudice and hardship to her.

6. 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. Respondent is employed as Hawaldar in CRPF and posted at Panvel.

7. 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.

8. In the present case if the Applicant - wife is forced to go from

Vadgaon (Maval), Pune to Nashik, 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 proceeding filed by Respondent-Husband from Nashik to Vadgaon (Maval), Pune.

9. Since the contentions are not controverted, in my opinion, ground of hardship has to be considered in favour of the Applicant, as one way distance between Nashik and Vadgaon is 250 kilometers.

10. As such, Application is allowed and disposed of in terms of prayer clause (a) which reads as under:-

“(a) The Hon’ble Court be pleased to transferred the proceedings bearing Hindu Marriage Petition No.213/2016 filed by the Opponent above named under Hindu Marriage Act, 1955 from the Civil Judge, Senior Division, Nashik to Civil Judge, Senior Division, Vadgaon Maval, District Pune.”

[MILIND N. JADHAV, J.]

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