

H. H. Sawant.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO.218 OF 2022

Pooja Swapnil Dhamale
(Ku. Pooja D/o Ramesh Dhage)

.. Applicant

Versus

Swapnil S/o. Ankushrao Dhamale

.. Respondent

-
- Ms. Megha D. Temburne, for Applicant.
 - None for Respondent.
-

CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 02, 2022

P.C.:

- 1.** Heard Ms. Temburne, learned Advocate for the Applicant.
- 2.** Perused the Affidavit-in-reply dated 23.06.2022. None appeared for Respondent though represented by Advocate on record.
- 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 18.12.2014. Respondent – husband initiated proceedings for dissolution of marriage / divorce pending on the file of Family Court, Latur of which transfer is sought by Applicant to Family Court, Pune, where she resides with brother and mother.
- 5.** Perused grounds of hardship which are pressed in paragraph No.7 of the Application. There is one minor daughter aged 7 years who is in the custody and care of Applicant. As Applicant – wife will be

required to travel from Pune to Latur 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.

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 Pune to Latur , 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 Latur to 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 Pune and Latur is 370 kilometers.

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

“(i) allow application and transfer the proceedings bearing Petition No. A-15/2021 (Swapnil-Vrs-Pooja) filed by the non-applicant pending before the learned Family Court at Latur (Annexure-B) to Hon’ble Family Court, Pune in order to conduct the said case alongwith the vide petition No. A-893/2021 pending before the Family Court at Pune (Annexure-E), in the interest of justice.”

[MILIND N. JADHAV, J.]

Digitally
signed by
SONALI
SATISH
KILAJE
Date:
2022.12.03
12:28:10
+0530