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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 224 OF 2022

Mrs. Ankita Bobby Pataye
@ Sugandha Sitaram Pendhari

.. Applicant

Versus

Bobby Chandrakant Pataye

.. Respondent

-
- Mr. A.A. Carvalho, Advocate for Applicant.
 - None for Respondent.
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CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 02, 2022

P.C.:

- 1.** Heard.
- 2.** Record shows that though served, none appears for the Respondent.
- 3.** Parties got married on 23.04.2014. Respondent – husband initiated proceedings for restitution of conjugal rights pending on the file of Family Court, Bandra of which transfer is sought by Applicant to Civil Judge, Ratnagiri, where she resides.
- 4.** Perused grounds of hardship which are pressed in paragraph Nos.5 of the Application. There is one minor son aged 7 years who is in the custody and care of Applicant. As Applicant – wife will be required to travel from Ratnagiri to Bandra to attend the proceedings, it will cause prejudice and hardship to her.

5. 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.

6. 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.

7. In the present case if the Applicant - wife is forced to go from Ratnagiri to Bandra, 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 Family Court, Bandra to Ratnagiri.

8. 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 Mumbai and Ratnagiri is around 350 kilometers.

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

“(b) This Hon’ble Court may be pleased transfer Petition being Petition No.1268 of 2020 filed by the Respondent /Husband before Family Court No.4 Mumbai at Bandra to the Hon’ble Court of Civil Judge, Ratnagiri.”

[MILIND N. JADHAV, J.]

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