

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 211 OF 2022

Prajakta Ravi Vemula
@ Prajakta Prakash Gentyal

.. Applicant

Versus

Ravi Gangadhar Vemula

.. Respondent

-
- Mr. Hrishikesh Sopan Shinde, Advocate for Applicant.
 - Mr. Pravin Sabban i/by Mr. Shrikant S. Kompelli, Advocate for Respondent.
-

CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 02, 2022

P.C.:

1. Heard Mr. Shinde, learned Advocate appearing for Applicant and Mr. Sabban, learned Advocate appearing for Respondent for some time. Perused the Application. This is an Application filed under Section 24 of the Code of Civil Procedure, 1908 by the Applicant – wife.

2. Parties got married on 05.02.2017. Respondent – husband initiated proceedings for dissolution of marriage / divorce pending on the file of Family Court, Bandra (Mumbai) of which transfer is sought by Applicant to Family Court, Solapur, where she resides with her parents.

3. Perused grounds of hardship which are pressed in paragraph Nos.10 (A) to (D) of the Application. As Applicant – wife will be

required to travel from Solapur to Bandra to attend the proceedings, it will cause prejudice and hardship to her. Respondent's Advocate has not raised any serious objections for opposing the Application, save and except on the ground of inconvenience that would be caused to the Respondent. That both DV Act and maintenance proceedings filed by Applicant are pending in Solapur. It is submitted that the Respondent is a Civil Contractor working in Mumbai. No Affidavit-in-Reply has been filed.

4. 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.

5. 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.

6. In the present case if the Applicant - wife is forced to go from Solapur to Mumbai, 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 Family Court, Solapur.

7. 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 Solapur is 400 kilometers.

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

“(a) The record and proceedings of the Petition (A) Case Number 630 of 2019 filed by the Respondent in the court of Ld. Family Court at Bandra (Mumbai) be transferred to the Ld. Family Court at Solapur.”

[MILIND N. JADHAV, J.]