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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 312 OF 2022

Amruta Harshad Rane
Alias Rupa Dipak Margaj

.. Applicant

Versus

Harshad S. Rane

.. Respondent

-
- Mr. N.U. Dedhia a/w. Mr. Rushikesh Bhagat i/by Khandeparkar & Associates for Applicant.
 - Mr. Dattatray P. Adarkar, Advocate for Respondent.
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CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 02, 2022

P.C.:

1. Heard Mr. Dedhia, learned Advocate appearing for Applicant and Mr. Adarkar, 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. Respondent's objections in Affidavit dated 03.08.2022 seen and considered.

3. Parties got married on 19.12.2020. Respondent – husband initiated proceedings for dissolution of marriage / divorce pending on the file of Family Court, Bandra of which transfer is sought by Applicant to District Court, Oras, Sindhudurg. Applicant resides with her parents at Kankavli. She works as a Software Engineer with NEC

Software Solution Board in Mumbai, but has been working from home since March 2021 as she has opted for working from home permanently.

4. Perused grounds of hardship (i) to (ix) which are pressed in the Application. As Applicant – wife will be required to travel from Kankavli to Mumbai 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. Respondent is a Software Engineer and works as Application Development Associated Manager in Accenture Company. He submitted that his younger brother is affected by polio and despite that he has attended DV Act proceedings at Kankavli. That Applicant has residential flats at Dombivli, Mumbai. It is seen that DV Act proceedings filed by Applicant are pending in Kankavli.

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 Kankavli 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 Civil Judge Senior Division, Oras.

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 Kankavli and Mumbai is 500 kilometers.

10. Both proceedings i.e. HM Petition No. A-317 of 2022 and DV 18 of 2021 are directed to the heard by District Court, Oros. As such, Application is allowed and disposed of in terms of prayer clauses ('a' and 'b') which reads as under:-

"a. that this Hon'ble Court be pleased to transfer the Application preferred by the Respondent under the provisions of the Section 13(1)(ia) of the Hindu Marriage Act, 1955. Act

bearing No.A-317 of 2022, pending before the Hon'ble Family Court at Bandra, to the Hon'ble District Court at Oros, Sindhudurg;

- b. that this Hon'ble Court be pleased to Order that the proceedings initiated by the Applicant under the Protection of Women from Domestic Violence Act, 2005, and the proceedings initiated by the Petitioner under Section 13(a) (ia) of the Hindu Marriage Act, 1955., be clubbed together and tried simultaneously.”*

[MILIND N. JADHAV, J.]

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