

H. H. Sawant.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO.319 OF 2022

Mrs. Priyanka Shivanand Kokatnoor

.. Applicant.

Versus

Mr. Shivanand Prabhakar Kokatnoor

.. Respondent.

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- Ms. Pooja Harit i/b. Manoj Harit and Co, for Applicant.
- Mr. Pradeep Gole, for Respondent.

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CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 02, 2022

P.C.:

1. Heard Ms. Harit learned Advocate appearing for Applicant and Mr. Gole learned Advocate appearing for Respondent at length. 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 28.04.2015. Respondent – husband initiated proceedings for restitution of conjugal rights pending on the file of Family Court, Satara of which transfer is sought by Applicant to Family Court, Pune, where she resides with her parents. Applicant is unemployed.

3. Perused grounds of hardship which are pressed in paragraph No.8 of the Application. As Applicant – wife will be required to travel from Pune to Satara to attend the proceedings, it will cause prejudice and hardship to her. Respondent has been duly served in Goa. On a query by the Court Mr. Gole submitted that Respondent is employed

as Quality Assurance Officer in CIPLA at Goa. Mr. Gole has profusely attempted to oppose the Petition on grounds of inconvenience and hardship to the Respondent. He also submitted that Court can consider directing Respondent to pay costs to the Applicant as and when she attends the hearing in Pune.

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 Pune to Satara, 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 Satara to Pune.

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 Satara and Pune is 115 kilometers.

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

“(a) that this Hon’ble Court may be pleased to pass appropriate order and direction thereby directing the transfer of Marriage Petition filed by the Respondent being No.32 of 2022 pending before Ld. Family Court at Satara to the file of Ld. Family Court at Pune, on such terms and conditions as this Hon’ble Court may deem fit and proper.”

[MILIND N. JADHAV, J.]

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