

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 137 OF 2021

Pooja Vijay Lalchandani

.. Applicant

Versus

Vijay Ramesh Lalchandani

.. Respondent

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- Ms. Sonali R. Chavan i/by Dr. Uday P. Warunjikar for Applicant
- Mr. Bhavesh Sawant a/w Mr. Zoheb Merchant i/by Jaiswal S. Chandanani Associates for Respondent

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CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 02, 2022

P.C.:

- 1.** Heard Ms. Chavan, learned Advocate for Applicant and Mr. Sawant, learned Advocate for Respondent.
- 2.** Perused the Application. This is an Application filed under Section 24 of the Code of Civil Procedure, 1908 by the Applicant-wife.
- 3.** Parties got married on 02.12.1999. Respondent – husband initiated proceedings for divorce pending on the file of Civil Judge Senior Division, Karad of which transfer is sought by Applicant to Civil Judge Senior Division, Pune where she resides with her mother. Applicant is a homemaker. Applicant has filed proceedings under D.V. Act and 498A of IPC which are pending before the Judicial Magistrate First Class, Pimpri, Pune.
- 4.** Perused grounds of hardship which are pressed in paragraph No. 7 of the Application. There are two children (sons) aged 22 years

and 15 years respectively who are residing with Respondent. As Applicant – wife will be required to travel from Pune to Karad to attend the proceedings, it will cause prejudice and hardship to her.

5. Respondent has filed affidavit-in-reply dated 25.04.2022 and controverted the submissions raised by Applicant in the Application and prayed for dismissal of the Application. Admittedly Respondent is a businessman.

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 Karad, 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 Karad to Pune.

9. In view of the above, ground of hardship has to be considered in favour of the Applicant, as one way distance between Karad and Pune is 160 kms.

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

“(a) This Hon’ble Court be pleased to issue Order under Section 24 of the Civil Procedure Code for Transfer of the Proceedings being HMP No. 217 of 2021 pending before the Court of Ad-hoc District Judge, Karad, At Karad to Hon’ble Civil Judge, Senior Division, Pune.”

[MILIND N. JADHAV, J.]

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