

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 341 OF 2022

Pooja Nilesh Hule @
Pooja Vithoba Dhawan

.. Applicant

Versus

Nilesh Suresh Hule

.. Respondent

-
- Mr. Ratan Laxman Adhe for Applicant
 - Ms. Kajal Savjani i/by Mr. Himanshu Nagarkar for Respondent
-

CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 02, 2022

P.C.:

1. Heard Mr. Adhe, learned Advocate for Petition and Ms. Savjani, learned Advocate for Respondent.

2. Learned Advocate for Applicant seeks leave to amend the prayer clause (b) to change the transferee Court from Civil Judge Senior Division, Pune to Family Court, Pune. Leave granted. Amendment to be carried out forthwith. Re-verification is dispensed with.

3. Perused the Application. This is an Application filed under Section 24 of the Code of Civil Procedure, 1908 by the Applicant-wife.

4. Parties got married on 05.02.2017. After the marriage, she was subjected to cruelty and harassment at the hands of Respondent-husband and his family members. Applicant filed Petition seeking maintenance which is pending before the learned Family Court, Pune.

5. Respondent – husband initiated proceedings for restitution of conjugal rights which is pending before the Family Court, Bandra of which transfer is sought by Applicant to Family Court, Pune, where she resides with her parents.

6. Perused grounds of hardship which are pressed in paragraph Nos. 17A to F of the Application. There is one minor son aged 2 & ½ years who is in the custody and care of Applicant. As Applicant – wife will be required to travel from Pune to Bandra to attend the proceedings, it will cause prejudice and hardship to her.

7. Respondent has filed affidavit-in-reply dated 07.09.2022 objecting to transfer of proceedings and prayed for dismissal of the Application.

8. Considered the submissions advanced by the respective parties.

9. 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.

10. 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.

11. In the present case if the Applicant - wife is forced to go from Pune 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 Bandra to Pune.

12. In my opinion, ground of hardship has to be considered in favour of the Applicant, as one way distance between Bandra and Pune is 170 kilometers.

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

“(b) Be pleased to transfer Hindu Marriage Petition No. A-1310/2022 pending on the file of Hon’ble Family Court, Bandra to Hon’ble Family Court, Pune.”

[MILIND N. JADHAV, J.]