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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 117 OF 2022

Sau. Mayuri Mandar Khairnar

.. Applicant

Versus

Shri. Mandar Vinayak Khairnar

.. Respondent

.....

- Mr. Himanshu Pujari i/by Mr. Mahendra B. Sandhyanshiv, Advocate for the Applicant.
- None for Respondent.

.....

CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 02, 2022

P.C.:

- 1.** Heard Mr. Pujari, learned Advocate appearing for Applicant.
- 2.** Though served, none appears for the Respondent.
- 3.** Parties got married on 10.07.2019. Respondent – husband initiated proceedings for dissolution of marriage / divorce on the file of Civil Judge Senior Division, Pune of which transfer is sought by Applicant to Civil Judge Senior Division, Malegaon, where she resides with he parents.
- 4.** Perused grounds of hardship which are pressed in paragraph Nos.9/D of the Application. As Applicant – wife will be required to travel from Malegaon to Pune 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. 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.

7. In the present case if the Applicant - wife is forced to go from Malegaon to Pune, 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 Pune to Malegaon.

8. 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 Pune and Malegaon is 350 kilometers.

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

“(b) That this Hon'ble Court be pleased to transfer the hearing of marriage petition bearing No.1226 of 2020 filed by the Respondent herein pending on the file of Ld. Civil Judge Senior Division at Pune to the file of Ld. Civil Judge Senior Division, Malegaon, Dist: Nashik, having similar jurisdiction to try and entertain the same.”

[MILIND N. JADHAV, J.]

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