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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 440 OF 2022

Sou. Geetanjali Amol Mhetre

.. Applicant

Versus

Shri. Amol Nathuram Mhetre

.. Respondent

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- Ms. Bhagyashri M. Ranade i/by Mr. S.C. Mangale, Advocate for Applicant.
- Mr. Amol Nathuram Mhetre, Respondent present in Court.

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CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 02, 2022.

P.C.:

1. Heard Ms. Ranade, learned Advocate appearing for Applicant – wife and Mr. Mhetre, Respondent-in-person at length. Perused the Application. This is an Application filed under Section 24 of the Code of Civil Procedure, 1908 by Applicant – wife.

2. Parties got married on 26.05.2009. Respondent – husband initiated proceedings for restitution of conjugal rights pending on the file of Family Court, Pune of which transfer is sought by Applicant to Family Court, Kolhapur, where she resides. Respondent is residing at Pune and has a two wheeler workshop.

3. Mr. Mhetre submitted that his objections may be considered by the Court. That he has an aged ailing mother and he is required to take her care. That apart, the elder son who is 13 years old is residing with him and he is also required to take his care. He submitted that he

has received threats and abuses from the family members of Applicant. Submissions made on behalf of Respondent are duly considered.

4. Perused grounds of hardship which are pressed in paragraph Nos.8/B, C, D, F, H, I and J of the Application. There are two minor children, one son aged 13 years who resides with Respondent and the younger son, 9 years old who is in the custody and care of Applicant. As Applicant – wife will be required to travel from Kolhapur 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 Kolhapur 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 Kolhapur.

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 Kolhapur is 250 kilometers.

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

“a. This Hon’ble Court may be pleased to transfer the Petition No.A 1257 of 2022 pending on the file of Ld. Family Court Pune to the Ld. Family Court, Kolhapur.”

[MILIND N. JADHAV, J.]

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