

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 408 OF 2022

Bhagyashree Pravin Madne

.. Applicant

Versus

Pravin Satyawar Madne

.. Respondent

.....

- Mrs. Sushma S. Kulkarni a/w Mr. Deepak T. Raut Advocates for Applicant
- Mr. S.R. Samel Advocate for Respondent

.....

CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 02, 2022

P.C.:

- 1.** Heard Mrs. Kulkarni, learned Advocate for Applicant and Mr. Samel, 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 15.07.2018. Due to quarrel between them, Applicant went to reside at her parental home at Chembur, Mumbai with her daughter Myra.
- 4.** Respondent – husband initiated proceedings for dissolution of marriage which is pending on the file of Civil Judge Senior Division at Vita, Sangli of which transfer is sought by Applicant to Family Court, Bandra as she resides in Chembur, Mumbai with her parents and daughter.
- 5.** Perused grounds of hardship which are pressed in ground

Nos. (a) to (i) of the Application. There is one minor daughter aged 3 years who is in the custody and care of Applicant. Applicant is employed at Andheri, Mumbai. D.V. Act proceedings filed by Applicant are pending at Kurla, Mumbai. As Applicant – wife will be required to travel from Mumbai to Sangli to attend the divorce proceedings, it will cause prejudice and hardship to her.

6. Mr. Samel, learned Advocate appeared for Respondent and initially sought time to file Affidavit-in-Reply. He fairly submitted that Respondent was working as a Site Engineer in Mumbai. He submitted that Respondent's parents were old and stayed in Sangli and he was required to take their care.

7. Submissions made by the learned Advocates for the respective parties have received due consideration of the Court.

8. 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.

9. 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.

10. In the present case if the Applicant - wife is forced to go from Mumbai to Sangli, it would certainly 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 Sangli to Mumbai.

11. In my opinion, ground of hardship has to be considered in favour of the Applicant, as one way distance between Mumbai and Sangli is 330 kilometers.

12. 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 pass order for transfer of the Hindu Marriage Petition No. 66 of 2021 filed by the Respondent against the Petitioner, pending in the Hon’ble Civil Court Senior Division at Sangli, Vita be transferred to the Hon’ble Family Court Bandra, Mumbai.”

[MILIND N. JADHAV, J.]

Digitally signed
by RAVINDRA
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AMBERKAR
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