

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 435 OF 2022

Rashmi Pravin Buchade .. Applicant
Versus
Pravin Mohanrao Buchade .. Respondent

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- Mr. Jaydeep S. Deo, Advocate for the Applicant.
 - None for Respondent.
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CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 02, 2022.

P.C.:

- 1.** Heard Mr. Deo, learned Advocate appearing for Applicant.
- 2.** The Applicant has filed affidavit of service dated 28.11.2022 which shows that the Respondent has been served on 21.11.2022.
- 3.** None has appeared for Respondent though served.
- 4.** This is an application filed under Section 24 of the Code of Civil Procedure for transfer of A-Petition No.159 of 2022 filed by Respondent-husband before the Family Court, Akola to the Family Court, Pune. The Applicant is a resident of Pune. Applicant is a Doctor and is serving as a lecturer at Bhimashankar Ayurvedic College, Vadgaon Kashimbeg, Pune. Respondent is a Software Engineer and is employed in Deutsche Bank, Yerwada, Pune since last 5 years. Respondent has filed the Petition for dissolution of marriage at Akola where his parents are residing. Respondent is a resident in Pune for

the last 12 years and is the owner of two flats in Pune. Both the Applicant and Respondent are divorcee. Applicant has a daughter aged 14 years from her first marriage whereas Respondent has two children, one son aged 12 years and a daughter aged 5 years from his previous marriage. All 3 children are studying in Pune. Applicant and Respondent got married in 2015. These are the admitted facts.

5. The grounds of hardship have been stated in paragraph Nos. 11(a) to (m) of the Petition. I have perused the said grounds. That apart, Applicant has stated that he received summons from the Family Court at Akola dated 19.09.2022 in respect of the Petition but it was not accompanied by the memo of the Petition or any other documents / Exhibits thereto.

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 Akola, 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 Akola to Pune.

9. 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 Akola is around 490 kilometers.

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

"(b) The present application may kindly be allowed and the A – Petition No. 159 of 2022 filed by the Respondent pending before the Hon'ble Family Court, Akola, may kindly be transferred to the Hon'ble Family Court Pune. "

[MILIND N. JADHAV, J.]

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