

H. H. Sawant

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 434 OF 2022

Varsha Anand More
@ Varsha Rajendra Ahire

.. Applicant.

Versus

Anand Devchand More

.. Respondent.

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- Mrs. Miskin Sonia, for Applicant.
 - Mr. Anand Devchand More, for Respondent-in-person.
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CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 02, 2022

P.C.:

1. Heard Mrs. Sonia, learned Advocate appearing for Applicant and Mr. More, Respondent appearing in-person at length. Perused the order dated 23.11.2022. This is an Application filed under Section 24 of the Code of Civil Procedure, 1908 by the Applicant – wife.

2. Parties got married on 30.06.2019. Respondent – husband initiated proceedings for dissolution of marriage / divorce pending on the file of Civil Judge Senior Division, Kalyan, Thane of which transfer is sought by Applicant to Civil Judge Senior Division, Pune, where she resides with her parents. Restitution proceeding No.1180 of 2021 is filed by Applicant on before Civil Judge Senior Division, Pune. It is seen that both parties are at present undergoing counselling at Pune.

3. Perused grounds of hardship which are pressed in paragraph

No.4 of the Application. As Applicant – wife will be required to travel from Pune to Kalyan to attend the proceedings, it will cause prejudice and hardship to her.

4. 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.

5. Mr. More has fairly submitted that if both the proceedings are heard by the same Court in Pune, he would have no objection and submit to the orders of the Court. His request is legitimate and deserves to be granted.

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 Pune to Kalyan, 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 Kalyan to Pune.

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 Kalyan and Pune is 150 kilometers.

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

“(a) That this Hon’ble Court be pleased to transfer the papers and proceedings of the H. M. Petition No.1920 of 2021 on the file of Civil Judge, Senior Division, Kalyan, Thane to the Court of Civil Judge, Senior Division, Pune and be clubbed together with H. M. Petition No.1180 of 2021 and try, dispose off both the petitions accordingly.”

[MILIND N. JADHAV, J.]

SONALI
SATISH
KILAJE

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by SONALI
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