

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 447 OF 2022

Mrs. Nilima Alok Gangurde

Alias Nilima Dnyaneshwar Ghodake

.. Applicant

Versus

Mr. Alok Vilas Gangurde

.. Respondent

-
- Mr. Amogh P. Khodye a/w. Mr. Saurabh Puranik i/by Aloukik R. Pail, Advocate for Applicant.
 - Mr. Rakesh Kamble, Advocate for Respondent.
-

CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 02, 2022

P.C.:

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

2. Parties got married on 14.02.2016. Respondent – husband initiated proceedings for dissolution of marriage / divorce pending on the file of Family Court, Pune of which transfer is sought by Applicant to Civil Judge Senior Division, Baramati, where she resides with her parents. Respondent is employed as General Manager in MSEB. DV proceedings and other proceedings are pending in Baramati which are instituted by the Applicant.

3. Perused grounds of hardship which are pressed in paragraph

Nos.5/A, D and E of the Application. As Applicant – wife will be required to travel from Baramati to Pune to attend the proceedings, it will cause prejudice and hardship to her. No serious prejudice will be caused to the Respondent on the contrary.

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. 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.

6. In the present case if the Applicant - wife is forced to go from Baramati 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 Baramati.

7. 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 Baramati is 110 kilometers.

8. 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 exercise its extraordinary powers under Section 24 of the Code of Civil Procedure, 1908 and pass an appropriate Order and/or directions transferring the proceedings viz. M.J. Petition No. A-1041 of 2022 filed by the Respondent before the Family Court at Pune to the Ld. Civil Judge Senior Division at Baramati.”

[MILIND N. JADHAV, J.]

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