

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

MISC. CIVIL APPLICATION NO.147 OF 2022

Monali Rajiv Pawar Applicant

Versus

Rajiv Kailas Pawar Respondent

.....

Mr. Mahesh K. Bhosale, Advocate for the Applicant
Ms. Karishma S. Sarin, Advocate (appointed) for the Respondent

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 14th September, 2023

ORDER :

1. This application is filed by the applicant/wife seeking transfer of proceeding i.e. Marriage Petition No.2072 of 2021, filed by respondent/husband for divorce in the Court of learned Civil Judge, Senior Division, Kalyan to the Family Court at Dhule.

2. Heard learned advocate for the applicant and learned advocate for the respondent. Perused the memo of application, annexures.

3. Learned advocate for the applicant submits that applicant/wife is residing at her parents' house at Dhule, and it would be inconvenient for her to travel from Dhule to Kalyan,

which is at a distance of approximately 300 km. Her father is suffering from different ailments. The applicant/wife also needs continuous care and treatment as she falls ill frequently, and they are unable to travel such a long distance on every date. The applicant/wife has no source of income, and it is difficult for her to bear the traveling expenses.

4. It is also the contention of the applicant/wife that proceedings i.e. Petition E No.366 of 2021, Petition A No.14 of 2022 and Cri. Misc. Application No.228 of 2022 are pending before the Courts at Dhule, and therefore, the proceeding filed by the husband at Kalyan, may be transferred at Dhule.

5. Learned advocate for the respondent/husband strongly opposed the prayer contending that the applicant/wife can attend the proceeding through video conferencing. It is not possible to accept the said submission as the respondent/husband can make that request to the Trial Court.

6. Admittedly, Petition E No.366 of 2021, Petition A No.14 of 2022 and Cri. Misc. Application No.228 of 2022 are pending before the Courts at Dhule.

6. It is well settled principle of law that convenience of the wife needs to be considered while deciding application for transfer of proceeding. In ***N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha, 2022 SCC OnLine SC 1199***, it is held;

"9. The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Court are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing sociology-economic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer."

7. In the light of aforesaid ratio and since proceedings i.e. Petition E No.366 of 2021, Petition A No.14 of 2022 and Cri. Misc. Application No.228 of 2022, filed by the applicant/wife are pending before the Courts at Dhule, it is desirable to transfer proceeding of Marriage Petition No.2072 of 2021 pending in the Court of Civil Judge, Senior Division, Kalyan to the Family Court at Dhule. In the result, following order:

ORDER

- (I) Civil Miscellaneous Application is allowed.
- (II) Marriage Petition No.2072 of 2021 pending before the Court of Civil Judge, Senior Division, Kalyan is hereby transferred to the Family Court at Dhule.
- (III) Fees of the learned advocate appointed to represent respondent/husband is quantified at Rs.2,500/-. The High Court Legal Services, Sub-Committee, Aurangabad, to pay the same within a period of four weeks from today.

[NITIN B. SURYAWANSHI]
JUDGE

S.P Rane