

Vinita

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 450 OF 2023-F

UJWALA DHANANJAY NHIVEKARPetitioner.
VS
DHANANJAY ARUYN NHIVEKAR AND
ANR.Respondents.

Mr. A. D. Bhobe and Ms. S. Shaikh, Advocate for the petitioner.

CORAM: PRAKASH D NAIK, J

DATED: 6th September 2023

ORAL ORDER.

1. The petitioner invokes jurisdiction of this Court under article 227 of the Constitution of India and Section 24 of CPC seeking transfer of following proceedings before Court having jurisdiction in the State of Goa.

- a. *Matrimonial Petition bearing No.A/97/2022 filed by the Respondent no.1 against the Petitioner before the Family Court at Kolhapur, Maharashtra seeking annulment of marriage under Section 13(i)(a) of the Hindu Marriage Act, 1955.*
- b. *Proceeding filed by the Petitioner against the Respondents pending before the Court of Judicial Magistrate First Class, Ajara, Maharashtra under the Protection of Woman from Domestic Violence Act, 2005*

2. The marriage of the petitioner and the respondent no.1 was solemnized on 23.5.2013 at Kolhapur as per Hindu rituals. Due to dispute between the parties, respondent no.1 initiated proceedings for annulment of marriage with the petitioner before Family Court at Kolhapur which are registered as Matrimonial petition no. A/97/2022. The said proceedings are initiated under section 13(i)(a) of Hindu Marriage Act 1955.

3. Petitioner has initiated proceedings under Protection of Women from Domestic Violence Act 2005 which are referred to the Court of Judicial Magistrate, First Class, Ajra, Maharashtra.

4. Learned counsel for the petitioner submitted that Matrimonial Petition bearing no.A/97/2022 is pending before Family Court at Kolhapur and presently at the stage of written statement/ say. The petitioner appears in person in the said proceedings. Proceedings under Domestic Violence Act bearing no.4/2022 filed by the petitioner are at the stage of evidence. Petitioner is residing in the State of Goa. Respondent no 1 is not providing any amount towards maintenance to the petitioner. Petitioner has filed interim maintenance application under Section 23 of the Domestic violence Act which is pending. Petitioner is required to attend the proceedings which are pending at Kolhapur and Ajara respectively. Petitioner

has completed a course in hotel management but does not have permanent source of income. Petitioner has to travel a distance of 190 kms to attend the proceedings in Matrimonial Petition No.A/97/2022 and about 100 kms to attend proceedings under Domestic Violence Act. Apart from inconvenience and hardship the petitioner finds it difficult to bear minimum cost of transport and other requirements. Petitioner has disability in the right hand on account of motor accident. Matrimonial Petition No.A/97/2022 being under Hindu Marriage Act, the Civil Court in Goa will have jurisdiction to try, entertain and dispose of the proceedings under Hindu Marriage Act 1955. Proceedings of DVA no.4/22 being under Protection of Women from Domestic Violence Act 2005, the Court of Judicial Magistrate, First Class, will have jurisdiction to try, entertain and dispose of such proceedings. Petitioner is residing in Goa since last 9 years. After the marriage, the petitioner and respondent no.1 had their matrimonial house in the state of Goa.

5. Vide order dated 18.4.2023 notice was issued to the respondents returnable on 3.5.2023. Report of registry dated 5.6.2023 as per bailiff report, Kolhapur indicates that notice to respondent no.3 had been served and she has willingly accepted the notice on behalf of respondent no.1. Hence, notices to respondent no.1 and 2 are served. Service is complete. Affidavit of service dated 9.6.2024 had been filed by the Advocate for the petitioner. Petition

was listed for hearing before this Court on 22.8.2023. Respondents were absent. By way of indulgence to give an opportunity to the respondents to appear in the proceedings, petition was adjourned to 30.8.2023. Submissions of learned counsel for the petitioner were heard on 30.8.2023 and petition was adjourned till today. However, even today respondents are absent.

6. Considering the submissions of learned counsel for the petitioner and the grounds urged for transferring the proceedings prayers for transfer can be granted. Respondent no. 2 is mother of respondent no.1. Apparently she is one of the respondents in the proceedings initiated by petitioner under Domestic Violence Act. Pursuant to transfer of the proceedings under Domestic Violence Act, concerned Court may not insist upon presence of respondent no.2 in the Court unless it is required.

7. Since the proceedings are being transferred to two different Courts in Goa, in the event parties make a request to the Court for listing the proceedings on common date, such request be considered by both Courts.

ORDER

- (i) Writ petition is allowed.
- (ii) Matrimonial Proceedings bearing No.A/97/2022 pending

before the Family Court at Kolhapur, Maharashtra be transferred to the Court of Civil Judge, Senior Division at Mapusa.

(iii) Domestic Violence Case No.4/2022 pending before the Court of Judicial Magistrate, First Class Ajara, Maharashtra be transferred to the Court of Judicial Magistrate First Class at Mapusa Goa.

(iv) Writ Petition is disposed of.

PRAKASH D. NAIK, J.

VINITA VIKAS
NAIK

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