



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO.227 OF 2021

SWATI SHRIDHAR UBALE)...APPLICANT

V/s.

SHRIDHAR MURLIDHAR UBALE)...RESPONDENT

Mr.Harshad Sathe, Advocate for the Applicant (Legal Aid).

Mr.D.D.Rananaware, Advocate for the Respondent.

CORAM : ABHAY AHUJA, J.

DATE : 13th OCTOBER 2023

PC. :

1. This is an Application seeking transfer of Divorce proceedings filed by the Respondent-husband before the Civil Judge, Senior Division, Satara to the Court of Civil Judge, Senior Division, Thane.

2. Today, when the matter is called out, Mr.Harshad Sathe, learned Counsel for the Applicant-wife, appointed through legal aid, would submit that now there is also a Court at CBD Belapur. The Applicant-wife resides at Turbhe, Navi Mumbai, which comes under the jurisdiction of CBD, Belapur, and therefore, he seeks leave of this Court

to amend the Application. Mr.D.D.Rananaware, learned Counsel for the Respondent-husband has no objection. Let the amendment be carried out forthwith.

3. Mr.Harshad Sathe for the Applicant-wife would submit that the marriage between the Applicant-wife and the Respondent-husband was solemnized on 25th May 2013 at Satara. Thereafter, on 15th March 2014, the Applicant-wife gave birth to a girl child. On 14th July 2015, the Respondent-husband sent a notice to the Applicant-wife. The said notice was replied by the Applicant-wife. After this, on 6th March 2020, the Applicant-wife received a notice with respect to the Divorce Petition filed by the Respondent-husband before the Civil Judge Senior Division at Satara.

4. Mr.Harshad Sathe would submit that the Applicant-wife is residing at Turbhe, Navi Mumbai along with her mother. It is submitted that the Applicant-wife has a 9 year old girl child, who goes to a Municipal school. It is submitted that the Applicant-wife as well as the mother have very meagre resources to sustain, as both of them are presently working as house-help. That, the distance between Satara and Navi Mumbai is 225 kilometers one way and it would not only be

inconvenient for the Applicant-wife to leave her daughter and mother and travel to Satara, every time the matter is listed there. Learned Counsel would submit that, infact, the Applicant-wife does not have money even to travel to Satara, considering the nature of work she performs. Learned Counsel would submit that the stage of the Divorce proceedings, at which they were stayed by this Court, was for appearance.

5. On the other hand, Mr.D.D.Rananaware for the Respondent-husband would submit that a number of times endeavour has been made to settle the dispute between the parties, however, since the demands from the Applicant-wife are too exorbitant, the same have not fructified. He would submit that the Respondent-husband has a small shop of mobile covers, and therefore, has been unable to meet the demands raised by the Applicant-wife to settle the matter. Learned Counsel would submit that the Respondent-husband lives in Shirval, Satara.

6. It is observed from the record that Mediation between the parties has failed.

7. The Hon'ble Supreme Court in the case of **N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha**¹ has emphasized that 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. That, given the prevailing socio-economic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.

8. In **Rajani Kishor Pardeshi vs. Kishor Babulal Pardeshi**², the Hon'ble Supreme Court has laid down the convenience of wife has to be preferred over the convenience of husband.

9. In the aforementioned facts and circumstances and keeping in mind the aforesaid principles, this Court is of the view that ends of justice would be met if the Divorce proceedings pending before the Civil Judge, Senior Division, Satara are transferred to the Court of Civil Judge, Senior Division at CBD Belapur.

10. The Application is made absolute in terms of amended Prayer clause (a) which reads thus :

1 SCC Online SC 1199 (2022)

2 2005 (12) SCC 237

“That this Hon’ble Court may be pleased to transfer the Hindu Marriage Petition No. 69 of 2020 pending before the Civil Judge Senior Division, Satara to Learned Civil Judge Senior Division, CBD Belapur at CBD Belapur.”

11. It is made clear that any observations on the merits of the dispute between the parties is only to consider this application which shall not influence the trial or disposal of the Marriage Petition which is to be tried and decided on its own merits uninfluenced by the said observations.

(ABHAY AHUJA, J.)