



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO.174 OF 2021

RAJANI ALIAS CHARU MAYUR PATIL)...APPLICANT

V/s.

MAYUR BHIKAN PATIL)...RESPONDENT

Ms.Swati Raul, Advocate for the Applicant (through Legal Aid Service).

Mr.Prashant Rathod, Advocate for the Respondent.

CORAM : ABHAY AHUJA, J.

DATE : 6th SEPTEMBER 2023

P.C. :

1. On 22nd August 2021, the following order was passed :

“1. This matter was kept back in the morning session as Ms.Swati C. Raul, learned counsel for the Applicant informed that on an earlier occasion Mr.Prashant Rathod had appeared on behalf of the Respondent. However, when the matter is called out in the afternoon session, learned counsel for the applicant informs that she had been informed by Mr.Prashant Rathod that he has taken discharge in the matter and no Advocate is appearing for the Respondent.

2. Be that as it may, re-issue notice to the Respondent returnable on 6th September, 2023.

3. Ms.Raul informs this court that the next date before the Family Court at Dhule is on 25th August, 2023.

4. Having heard learned counsel and having perused the application, let there be an ad-interim stay in terms of prayer clause (c) till the next date.

5. Let the copy of this order be served on the Family Court at Dhule.

6. List on 6th September, 2023.”

2. Today, when the matter is called out, Mr.Prashant Rathod appears for the Respondent and submits that although on the last occasion he had informed this Court that he has taken discharge in the matter, however, he has now received telephonic instructions from his client, the Respondent in the matter, to appear on his behalf. Learned Counsel submits that his name is still showing on the causelist and he has not taken discharge. Learned Counsel clarifies that on the last occasion he had communicated to the learned Counsel for the Applicant that he was in the process of taking a discharge but had not actually taken one, and therefore, he is entitled to represent the Respondent in the matter. Learned Sheristedar of this Court informs this Court that Vakalatnama has infact been filed by Mr.Prashant Rathod on behalf of the Respondent on 16th December 2021.

3. Learned Counsel for the Respondent submits that on whatsapp as well as on telephonic instructions, the Respondent has consented to the transfer of Marriage Petition No.A-14 of 2021 pending before the Family Court at Dhule to Civil Judge Senior Division at Kalyan.

4. In this view of the matter, the Application is made absolute in terms of Prayer Clause (b) which reads thus :

“b) This Hon’ble Court be pleased to transfer the Marriage Petition No. A 14/2021 filed before family Court, Dhule to Ld. Civil Judge, Senior Division at Kalyan Court, District Thane.”

5. In view of above, ad-interim stay granted earlier in terms of Prayer clause (c) stands vacated.

6. The Application is, accordingly, disposed.

7. The Family Court at Dhule to expeditiously transfer papers and proceedings of Marriage Petition No.A-14 of 2021 to the Court of Civil Judge Senior Division at Kalyan, District Thane.

(ABHAY AHUJA, J.)