



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO. 324 OF 2019

Mrs. Ketaki Swapnil Ganbote

Aka Ketaki Ajit Bagade

.. Applicant

v/s.

Mr. Swapnil S/O. Mohan Ganbote

.. Respondent

...

Mr. Marnik Shah a/w Mr. Sumesh Sonawane for the applicant.

Mr. Rupesh A. Zade a/w Ms. Priyanka Gupta for the respondent.

...

CORAM : KAMAL KHATA, J.

DATED : 10th AUGUST 2023.

P.C. :

1. This Miscellaneous Civil Application is filed by the Applicant-wife under section 24 of the Civil Procedure Code 1908, for transfer of Marriage Petition no.317/2019 filed by the Respondent-husband from Civil Judge, Senior Division, Baramati to Family Court, Bandra, Mumbai.
2. The Applicant's case is that the marriage took place on 31st December 2017 at Baramati and registered on 01st January, 2018. They have no issues out of the said wedlock. On 5th January, 2019 the applicant and respondent travelled to Mumbai from Baramati, and on 6th January 2019 respondent left for Sydney, Australia, for work. It is

submitted that the respondent did not make any efforts to call the applicant to cohabit with him. It is submitted that the Divorce Petition was filed by the respondent through his father as a constituted attorney for divorce in Civil Judge, Senior Division, at Baramati, Pune.

3. Learned counsel for the applicant submitted that the applicant was working earlier, however, she is not employed since the past few months and hence she has no source of income. It is submitted that she is dependent on her parents for her livelihood. The distance between Mumbai to Baramati is around 250 kms., which would take 5 to 6 hours for a single journey. Therefore, the applicant will face inconvenience, hardship and expense to travel.

4. Learned Counsel for the respondent submits that the respondent himself is in Australia and the divorce has been filed through his father, who is around 58 years old. He submits that the respondent had no other option but to file the case for divorce at Baramati as the cause of action arose there. He submits that the father would be put to great inconvenience and hardship to travel from Baramati to Mumbai on each of the court dates. He accordingly submits that the respondent is willing to pay a sum of Rs. 6000/- per

trip for applicant's travel and accommodation to Baramati whenever the Court requires her to attend court proceedings.

5. The Court in the case of *Anindita Das v/s. Srijit Das*¹ held that the Court is required to consider each petition on its own merits. If the travelling expenses are paid and the child can be looked after by someone then the Court may not consider transferring the case. In this case the travel expenses are paid by the respondent and there is no issue out of this wedlock.
6. The Apex Court in the case of *N.C.V. Aishwarya v. A. S. Saravana Karthik Sha*² held that the Courts have to consider 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 the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life.
7. After hearing both the counsel, I am inclined to reject this application since the balance of convenience in this case is in favour of the respondent. The Power of Attorney holder who

1 (2006) 9 SCC 197

2 2022 SCC OnLine 1199.

is father of the respondent will undergo greater inconvenience and hardship as compared to the applicant-wife. It is not the case of the applicant that she is unable to travel and mere inconvenience of travel to Baramati which is just five and half hours cannot be a sole ground for transfer of the proceedings. The respondent shall pay the applicant Rs. 6,000/- for each date that the court requires her physical presence.

8. The interest of the applicant would also be managed if the applicant is granted video conferencing facility if her physical presence is not absolutely necessary. Accordingly, the Civil Judge, Senior Division, Baramati may grant video conferencing facility to the applicant as well as the respondent if applied for and if their physical presence is not absolutely necessary.

9. In view of the above the Application is rejected.

10. All concerned to act upon an authenticated copy of this order.

(KAMAL KHATA, J.)