



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO. 467 OF 2022

Trupti Mangesh Banglekar

.. Applicant

v/s.

Mangesh Krishna Banglekar

.. Respondent

...

Mr. Manoj Kane for the applicant.

Mr. Pramod Pawar for the respondent.

...

CORAM : KAMAL KHATA, J.

DATED : 18TH 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 Petition No. A 574 of 2021 filed by the Respondent husband from Family Court, Mumbai to Family Court, Raigad, Alibag.

2. The Applicant's case is that the marriage took place on 24th December, 2016 at Raigad. On 28th September, 2018 a son was born out of wedlock. On 17th June, 2019 applicant-wife left respondent-husband's house due to strained matrimonial relationship and returned to her parents house at Alibag along with her 10 months old son. On 9th June, 2020 the applicant filed

M.A. No. 109 of 2020 under section 125 of Criminal Procedure Code before the Chief Judicial Magistrate, Alibag for claiming maintenance from respondent for herself and for her son. I am informed by learned counsel for the respondent that the same has been disposed of by an order dated 6th January 2023. On 16th January 2021 the Respondent filed Divorce Petition No. A 574 of 2021 under Section 12(1)(ia) of the Hindu Marriage Act, 1955. On 25th August, 2021 M. A. No. 109 of 2020 was transferred to Family Court Alibag and numbered as E-95/2021.

3. Learned counsel for the applicant submits that son is only 4 years old and she has to look after the son. The applicant is staying with her old mother who has to look after the child whilst she is at work. Learned counsel further submits that it would cause her grave inconvenience and hardship to keep the child with her mother whilst she has to go and attend the court proceedings in Mumbai on each of the court dates. It would take 3 ½ hours single journey to travel from Alibag to Mumbai. It is submitted that the inconvenience would be caused to the child as well as to the parent to take care of the child besides going to court on each of the dates and applicant also has an apprehension of losing her job as she is an court employee, presently posted in District Court, Panvel. He accordingly submits that the application

be allowed.

4. On the other hand, learned counsel for the respondent submits that the applicant-wife has been going to work every day whilst leaving child with her mother hence, there is no question or no prejudice that would be caused to her if child is kept for longer hours with the grand parents. Besides that the learned counsel submits that after leaving the matrimonial home, applicant had been traveling from Alibag to Mumbai. Learned counsel further relied upon the judgment in the case of ***Krishna Veni Nagam v/s. Harish Nagam***¹ and more particularly in paragraph nos.8, 9, 12 and 14 to submit that the applicant could use the video conferencing facility to attend the court therefore, application should not be allowed to be transferred as she can benefit from the video conferencing facility available to her. In light of the above, he submits that the application be rejected.

5. The law with respect to transfer of proceedings, particularly matrimonial disputes, is no longer *res-integra*. The ratio laid down by the Hon'ble Supreme Court in the cases of ***Sumita Singh v. Kumar Sanjay***² and ***N.C.V. Aishwarya v. A. S. Saravana Karthik Sha***³ is that in matrimonial disputes, it is the convenience of the wife which is preferred over the convenience of the husband while

1 (2017) 4 SCC 150

2 (2001) 10 SCC 41 : AIR 2002 SC 396

3 2022 SCC OnLine 1199

considering the transfer of a case from one Court to another.

6. In my view, considering the facts of this case, the balance of convenience is in favour of the applicant. As the Apex Court in the case of *Krishna Veni Nagam (supra)* has observed that it was urged that in the interest of minor child and in the interest of senior citizen who are going to be affected. In my view applicant-wife could suffer more inconvenience to travel and in the interest of child and the grand parents as they could have to face their own set of issues as taking care of the minor child for prolonged hours. Be that as it may, in the interest of the applicant, child and her grand parents who are looking after the child, I am inclined to grant this application and pass the following order;

(i) Application is allowed in terms of prayer clauses (a).

(ii) The proceedings and application made in Petition No. A 574 of 2021 pending before Family Court, Mumbai be stayed pending transfer; and be transferred to Family Court, Raigad, Alibag.

(iii) The transfer may be effected within a period of four weeks and upon receipt of the papers and proceedings the Family Court, Raigad, Alibag shall give notice to the parties, preferably within three weeks, to proceed with their respective matters.

(iv) Family Court, Raigad, Alibag may grant video conferencing facility to the respondent if he applied for and if his physical presence is not absolutely necessary

(v) All concerned to act on the authenticated copy of this order.

(KAMAL KHATA, J.)