



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

987 MISC.CIVIL APPLICATION NO. 5 OF 2024

PALLAVI SURESH KUMBHAR ALIAS PALLAVI PRABHAKAR SONWANE

VERSUS

SURESH PANDHARINATH KUMBHAR

...

Advocate for Applicant : Mr. Amol Karbhari Gawali

Advocate for Respondents : Mr. Ramrao Nirmal h/f. Mr. S.S. Gangakhedkar

...

CORAM : ARUN R. PEDNEKER, J.

Dated : September 27, 2024

PER COURT :-

1. Heard the learned counsel for the parties.
2. By the present application, the applicant/wife seeks transfer of divorce proceeding bearing Marriage Petition No. 798/2023 pending before the 8th Jt. Civil Judge, Senior Division, and Additional CJN, Pune initiated by the respondent/husband to the Court of Civil Judge, Senior Division, Bhusawal, District Jalgaon.
3. The learned counsel for the applicant/wife submits that applicant got married with respondent/husband in the year 2010, that there are no issues out of the said marriage, that she was driven out of the house by the respondent and presently wife is residing with her parents at village Fekri, Taluka Bhusawal. The learned counsel for the applicant further submits that the applicant is housewife, she has no source of income and she has applied for maintenance under section 125 of Cr.P.C., so also the proceedings under the Domestic Violence Act is also initiated by the applicant against the husband at Bhusawal Court and the respondent/husband is appearing in the said proceedings at Bhusawal.

4. The learned counsel for the applicant submits that husband has initiated divorce proceedings at Pune Court and the distance between the two places is more than 400 k.m. and it will be difficult for the wife to attend the proceeding at Pune. The learned counsel submits that respondent is in Government service and that respondent can conduct the divorce proceedings, if transferred at Bhusawal.

5. Per contra, the learned counsel for the respondent/husband submits that this Court has no jurisdiction to transfer the divorce proceeding from Pune Court to Bhusawal Court since Pune Court is within the territorial jurisdiction of the Principal Seat of Bombay High Court although this Court has territorial jurisdiction over the Court at Jalgaon.

6. The learned counsel for the applicant relied upon the judgment of this Court in the case of **Sayali w/o. Swapnil Kuber V. Swapnil s/o. Harischandra Kuber reported in 2014 (1) Mh.L.J. 584** and submits that this Court has jurisdiction to decide the present matter as the cause of action arises within the jurisdiction of this Court.

7. Having considered the judgment of this Court in the case of **Sayali** (supra), it reveals that this Court has jurisdiction to entertain the present application.

8. In view of the facts and circumstances of the present case, I hold that it is difficult for the applicant/wife to defend the divorce proceeding at Pune as she is housewife and has no source of income. There are other two proceedings also pending in Bhusawal Court initiated by the wife and respondent is also defending the proceedings filed by the wife at Bhusawal. Considering the above, it would be more appropriate to transfer the divorce proceeding initiated by the husband at Pune to the Court at Bhusawal.

9. In view of the discussion made above, following order is passed :-

ORDER

(A) The application is allowed in terms of prayer clause 'A', which is as under :-

"A] The Hon'ble High Court may be pleased to transfer the proceedings of Marriage Petition No. 798/2023 pending before the VIII Joint Civil Judge Senior Division and Additional CJN Pune to the court of Civil Judge Senior Division, Bhusawal, District Jalgaon."

(B) It is directed that on transfer the applicant/wife shall not seek unnecessary adjournment without informing husband or advocate for the husband so as to avoid inconvenience to the husband in travelling.

(C) On transfer, the Bhusawal Court shall decide all the proceedings as expeditiously as possible.

With this observation, the present MCA is disposed of.

(ARUN R. PEDNEKER, J.)

ssc/