

Ajay

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

MISC. CIVIL APPLICATION NO. 193 OF 2024

Payal Vinayak Gajul

.. Applicant

Versus

Vinayak Murlidhar Gajul

.. Respondent

-
- Mr. Kuldeep U. Nikam a/w. Mr. Om N. Latpate, Advocates for Applicant.
 - Ms. Ankita Pramod Rai, Advocate for Respondent.
-

CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 26, 2024.

P.C.:

- 1.** Heard Mr. Nikam, learned Advocate for Applicant and Ms. Rai, learned Advocate for Respondent.
- 2.** Present Misc. Civil Application (for short “MCA”) seeks transfer of Marriage Petition A No.128 of 2023 filed by Respondent – husband in the Family Court at Solapur to the Family Court, Sangli.
- 3.** Apart from the proximity of distance between the two destinations, Applicant – wife would require accompaniment of elders / parents to accompany her.
- 4.** Ms. Rai, learned Advocate for Respondent – husband in her usual fairness at the outset would submit that she has instructions not to oppose the MCA per se, but seeks leave of the Court for making

three submissions. She would submit that Respondent is facing an imminent threat to his life and limb from the Applicant's relatives and he has received phone calls to that effect. She would submit that in that regard he has filed a non-cognizable complaint against them in the local jurisdictional police station. She would submit that parents of Respondent are senior citizens and his mother requires constant medical care as she has undergone knee replacement surgery. She would in all fairness submit that Respondent is a Medical Representative by profession and therefore requiring him to attend Court proceedings in the Family Court at Sangli would entail him to take leave from his work which would jeopardise his job prospects and employment.

5. After hearing both learned Advocates and perusing the pleadings, it is seen that the submissions made by Respondent expressing apprehension can be clearly addressed by passing appropriate directions. Applicant's difficulty and hardship clearly outweighs the submissions made on behalf of Respondent.

6. Grounds of hardship being evident and considering the ethos of Section 24 of the Code of Civil Procedure, 1908, there can be no impediment in allowing the present MCA looking at the inconvenience of the Applicant – wife. Equally, there is a genuine apprehension expressed by the Respondent. The Court will also have to consider the

same. In the present case, Respondent's request can therefore be appropriately considered.

7. There is one more submission advanced by the learned Advocate for Respondent – husband across the bar and the same also needs to be considered. She would submit that the Applicant – wife has filed DV Act proceedings in the Court of Judicial Magistrate First Class, Sangli and also a FIR in Sangli against Respondent – husband.

8. She would submit that it is desirable that all cases should be clubbed together and tried together by the same Judge / Court so as to avoid multiplicity in trial on the same issues and avoid conflict of decisions by two different Courts since the issues between the parties in the proceedings would be interdependent on each other. The request made by Ms. Rai is appropriate and fair in the facts and circumstances of the present case. Mr. Nikam in his usual fairness does not oppose the request made by Ms. Rai. Such conduct of the Advocates at the bar is duly appreciated by the Court for not wasting the time of this Court since they have apprised the Court by placing minimal arguments *qua* the issue in hand, rather than being unnecessarily verbose.

9. In that view of the matter, I direct that the DV Act proceedings nomenclatured as P.W.D.V.A. No.12 of 2024 before the Judicial Magistrate First Class, Sangli to be transferred to the Family

Court at Sangli and it shall be heard alongwith the transferred Marriage Petition from the Family Court at Solapur.

10. Both the concerned Family Courts and the Court of Judicial Magistrate First Class shall take cognizance of a server copy of this order and shall not insist on a certified copy of this order and ensure that transfer of proceedings and re-registration of the proceedings takes place within a period of two weeks from the date on which a server copy of this order is tabled before them.

11. In addition to the above, it is clarified that Respondent – husband shall be permitted to appear on VC before the Family Court, Sangli.

12. With the above directions, MCA stands allowed in terms of prayer clause ‘a’ which reads thus:-

“a) This Hon’ble Court may kindly be pleased to transfer the Divorce Proceeding Bearing Marriage Petition A No. 128 of 2023 filed before Ld. Family Court, Solapur District: Solapur to Ld. Family Court Sangli.”

13. MCA is allowed and disposed.

[MILIND N. JADHAV, J.]

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