

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO.325 OF 2022

Sapna Vinod VanmoreApplicant

V/s.

Mr.Vinod Vasantrya VanmoreRespondent

Mr.Kalpesh Uttamrao Patil, for the Applicant.

Mr.Bhushan A. Walimbe, for the Respondent.

CORAM : SHIVKUMAR DIGE, J.

DATE : 8th JANUARY 2024

P.C:-

. Heard learned counsel for the Applicant and learned counsel for the Respondent.

2. By this Application the Applicant is praying for transfer of Petition No.71 of 2018 filed by the Respondent pending before the Civil Judge Senior Division, Islampur to Civil Judge Senior Division, Karad, Satara.

3. It is contention of the learned counsel for the Applicant that, the Applicant is wife of the Respondent. The Applicant has filed Application for maintenance, under

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provisions of Domestic Violence Act, which are pending at Karad, Satara. These proceedings are contested by the Respondent. Thereafter, to counter the said Petition the Respondent has filed Petition under Section 9 of the Hindu Marriage Act at Islampur. The Applicant is finding difficult to go to Islampur as she stays at Karad, Satara.

4. The learned counsel further submitted that, Applicant has made statement before this Court on 29th January 2020 that he would not proceed further in the proceeding pending at Islampur but inspite of that he has proceeded in the said proceedings. Hence, requested to allow the Application.

5. It is contention of the learned counsel for the Respondent that, the distance between Karad and Islampur is 25 km, the Applicant had attended the proceedings at Islampur and matter is reached for cross-examination of the Respondent. As the Applicant had participated in the proceeding at Islampur. Hence at this stage it is not necessary to transfer the matter from Islampur to Karad, Satara and requested to reject the Application.

7. I have heard both the learned counsel.

8. The Respondent has attended the proceeding filed by the Applicant at Karad i.e. D.V. proceedings and maintenance Application. The Respondent has filed Petition under Section 9 of Hindu Marriage Act which is pending at Civil Judge Senior Division, Islampur. It appears from record that learned counsel for Respondent has made statement before this Court on 29th January 2020 that “the Respondent would not proceed further in the pending proceeding”, in spite of this statement the Respondent has proceed in the matter, and matter is now for cross-examination of Respondent.

9. In my view, it is settled law that, Court has to see the convenience of the wife. The wife stays at Karad and earlier the Respondent has participated in two proceedings filed by the Applicant at Karad. The Respondent has proceeded with the matter in spite of his statement made before this Court. Hence, it cannot be considered that pending application is reached for cross-examination of the Respondent.

10. In view of above, I pass following order.

ORDER

(i) Application is allowed.

(ii) The Marriage Petition No.71 of 2018 filed before the Civil Judge Senior Division, Islampur is transferred to Civil Judge Senior Division, Karad, Satara.

(iii) The learned Presiding Officer is requested to dispose of transferred Petition as early as possible.

(SHIVKUMAR DIGE, J.)

Later on

11. The learned counsel for the Respondent seeks stay of the order, for eight weeks.

12. Considering the reasons mentioned in the Application, I am not inclined to grant stay.

(SHIVKUMAR DIGE, J.)