

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****MISCELLANEOUS CIVIL APPLICATION NO. 132 OF 2023**

Poonam Hira Bunde

... Applicant

Versus

Hira Balkisan Bunde

... Respondent

Mr. Atharva R. B. i/b. MR. Vaibhav R.G., Advocate for the Applicant.
Ms. Rekha Musale, Advocate for Respondent.

CORAM : SHIVKUMAR DIGE, J.**DATE : 5th FEBRUARY, 2024.****P.C. :**

1. Heard learned counsel for the applicant and learned counsel for the respondent.
2. Learned counsel for the applicant seeks leave to carry out amendment. Leave granted. Amendment be carry out forthwith.
3. Learned counsel for the applicant submits that applicant has filed divorce petition pending before the Family Court, Satara. The hometown of applicant is Satara. During the covid period, she was staying at Satara due to which said petition was filed at Satara. Now she is working at Nashik, it is finding difficult for her to go to Satara to attend the Court dates. Hence, requested to transfer the divorce petition filed by her pending before the Satara to Family Court, Nashik.

4. Learned counsel further submits that the Execution Proceeding of maintenance be transferred to Family Court, Nashik.

5. Learned counsel for the respondent/husband submitted that respondent had filed Divorce Petition against the applicant before the Family Court, Nashik. The said petition is decreed ex-parte. The respondent stays at Nashik. If already the Divorce Petition is decreed against the applicant, the divorce petition filed by the applicant is not maintainable. Hence requested to reject the application.

6. I have heard both the learned counsel. Applicant has filed divorce petition against the respondent/husband which is pending at Family Court, Satara. Applicant works at Nashik and the respondent stays at Nashik. It is contention of learned counsel for the respondent that divorce petition filed by applicant is not maintainable. In my view, the respondent can file appropriate application before the concerned Court raising maintainability of the petition. The concerned Court can decide the said application on its own merit.

7. In view of the above, I pass following order:

ORDER

- (i) The application is allowed.
- (ii) Marriage Petition No. 42 of 2020 along with Execution Proceeding No. 12 of 2022 be transferred

to Family Court, Nashik.

- (iii) Respondent/husband can file application for the maintainability of the divorce petition filed by the applicant before the concerned court. The concerned Court shall decide the said application on its own merit.
- (iv) Both the parties are directed to appear before the Family Court, Nashik on 05.03.2024.
- (iv) The application is disposed of.

(SHIVKUMAR DIGE, J.)

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