

Ajay

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

MISC. CIVIL APPLICATION NO. 85 OF 2024

Kavita Rathod Shankar Singh

.. Applicant

Versus

Rathod Shankar Singh

.. Respondent

-
- Mr. Raj Khude, Advocate for Applicant.
 - Mr. Amit Pai, Advocate for Respondent through VC.
-

CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 27, 2024.

P.C.:

1. Heard Mr. Khude, learned Advocate for Applicant and Mr. Pai, learned Advocate for Respondent through VC.

2. Present Misc. Civil Application (for short “MCA”) is filed by the Applicant – wife seeking transfer of Marriage Petition No.1080 of 2023 filed by Respondent – husband in the Court of Civil Judge Senior Division, Pune at Pune to the Family Court, Bandra, Mumbai where the Applicant – wife resides. It is seen that Applicant – wife is residing in Mankhurd alongwith the parents.

3. It is averred that Applicant has also instituted Application under Section 9 of the Hindu Marriage Act, 1955 in the Family Court at Bandra, Mumbai.

4. Mr. Pai, learned Advocate for Respondent – husband would draw my attention to the Affidavit-in-Reply dated 13.09.2024 filed by Respondent and would contend that if the chronology of events pursuant to the solemnization of the marriage is seen, then it would be evident that Applicant – wife has waited for four years after filing of the Marriage Petition filed by Respondent to file the FIR in Pune itself. He would submit that Applicant – wife has travelled all the way from Mumbai to Pune to attend the proceedings. Filing of the Application is only done as a counterblast to the filing of the Marriage Petition by the Respondent – husband.

5. He would next submit that in following the above, the Applicant – wife has filed her Marriage Petition for Restitution of Conjugal Rights as also filed D.V. Act proceedings before the Metropolitan Magistrate Court at Mulund, Mumbai merely to harass the Respondent – husband. He has also expressed grievances apprehension on behalf of the Respondent – husband to his life and limb since on the previous occasion he was beaten up by the Applicant and her 10 family members and friends who always travel alongwith her for every hearing. He would submit that in that regard Respondent has also filed a police complaint with the Commissioner of Police, Pimpri Chinchwad, Pune which is appended to the Affidavit-in-Reply.

6. In addition thereto, Mr. Pai would submit that Applicant is working in the IT sector in Mumbai, but Respondent – husband is working as a teacher and faculty member in a coaching class in Pune and in that view of the matter, it would be inconvenient for him to travel to Mumbai for attending the hearing of the Marriage Petition, if the same is transferred since it would affect his profession / job as a teacher in the coaching class and resultantly it would jeopardise his prospects. He would also submit that if he is unavailable in Pune, his coaching scheduled of the students who he is teaching will severely suffer and therefore his career may also get harmed.

7. I have considered the Affidavit-in-Reply filed by Respondent – husband and pleadings in the present case.

8. It is seen that Applicant is residing in Mumabi and there are other proceedings which she has filed in Mulund. In that view of the matter, it is further seen that Applicant is presently working in Mumbai. Looking to the proximity of distance between the two destinations, it would undoubtedly be difficult for the Applicant who is a lady to travel to Pune to attend the proceedings in Pune. That apart, she would also require accompaniment of her elder parent for her safety and security.

9. However, the grievance raised by Mr. Pai has also to be considered in the present case. Since allowing the Application of the

Applicant should not render any difficulty to the Respondent – husband. Considering the submissions made by Mr. Pai and the vocation of the Respondent – husband which is referred to and alluded to herein above, the ends of justice would be met if the Family Court at Bandra, Mumbai is directed to permit the Respondent – husband to appear on VC in the transferred Marriage Petition.

10. In view of my above observations, MCA stands allowed in terms of prayer clause ‘a’ which reads thus:-

“(a) This Hon'ble court be pleased to pass an order of transfer of Marriage Petition no.1080/2023 filed under section 13(1-ia), (iii) of the H M Act, 1955 by the respondent, which pending Hon'ble the Court of Civil Judge Senior Division, Pune at Pune to the Hon'ble Family Court Bandra at Mumbai where the Conjugal Right Petition filed by the applicant, under section 9 of the H M Act, before Hon'ble Family Court Bandra at Bandra Mumbai, bearing No.2515/2023 is pending for the reasons disclosed in the memo of misc. Civil Application.”

11. It is clarified that, 4th Family Court or any other concerned Family Court at Bandra, Mumbai seized with the hearing of the said proceedings shall permit the Respondent – husband to appear on VC on all dates of hearing.

12. With the above directions, MCA stands allowed and disposed.

[MILIND N. JADHAV, J.]

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