

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 100 OF 2024

Priyanka Swapnil Patil & Ors.

.. Applicants

Versus

Swapnil Vilasrao Patil

.. Respondent

-
- Mr. Rahul Vitthal Shinde for Applicants
 - Mr. Dilip Shinde for Respondent
-

CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 25, 2024

P. C.:

1. Heard Mr. Rahul Shinde, learned Advocate for Applicants and Mr. Dilip Shinde, learned Advocate for Respondent.

2. Present Misc. Civil Application (MCA) is filed by Applicant - wife seeking transfer of Marriage Petition No. 38/2023 pending on the file of Civil Judge Senior Division, Jaysinghpur and Civil Misc. Application No. 12/2023 pending on the file of District and Sessions Judge, Islampur to the file of Civil Judge Senior Division, Pandharpur where she is residing along with her family members and two children.

3. It is seen that Applicant is required to take care and provide support to her minor children who are six year and four year old. It is informed that Respondent is a practicing Advocate. Looking to the proximity of distance of 175 kms. (approx) one way and difficulty and hardship that would be encountered by Applicant wife if she is

required to undertake the journey to attend the proceedings in Jaysinghpur and Islampur which are located at two different places; one in Kolhapur District and other in Sangli District, an arguable case is made out by Applicant for allowing the present MCA. Apart from the issue of safety of the Applicant who is young, she is required to provide care and support to her minor children and requires accompaniment of her parents for travelling, the hardship of the Applicant is clearly evident.

4. In view of the decision of the Supreme Court in the case of **N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha¹**, present MCA deserves to be allowed without any impediment whatsoever.

5. In view of the above, present MCA stands allowed in terms of prayer clause (a) which reads thus:-

"(a) This Hon'ble Court be pleased to transfer the Marriage Petition No. 38 of 2023 pending on the file of Ld. Civil Judge Senior Division, Jaysinghpur and Civil Miscellaneous Application No. 12 of 2023 pending on the file of District and Session Judge, Islampur to the file of Ld. Civil Judge Senior Division, Pandharpur, for further proceeding and hearing in the matter accordingly.

6. It is clarified that the proceedings i.e. Marriage Petition No. 38/2023 and Section 9 Petition filed by Applicant - wife shall all be clubbed and heard together by the learned Civil Judge Senior Division, Pandharpur and Civil Misc. Application No. 12/2023 is transferred to Addl. District Judge, Pandharpur. If any other Application or Petition is

1 AIR 2022 SC 4318

filed by Respondent - husband in the Court of Civil Judge Senior Division, Islampur, the same shall also stand transferred to Civil Judge Senior Division, Pandharpur. This order is passed because Mr. Dilip Shinde, learned Advocate for Respondent informed that Respondent filed an Application below Exh. 32 against Applicant - wife for breach of the orders passed in the Custody Petition.

7. Further Mr. Dilip Shinde, learned Advocate for Respondent would submit that it would be prudent if the parties are referred for mediation since there is a realistic chance of success considering the age of minor children as also proceedings for custody being agitated and pending in the Court and there is possibility that the parties may reconcile. If that is the position, it would undoubtedly be in the interest of the parties, however, I am inclined to allow the present Application with direction that learned Civil Court Senior Division, Pandharpur seized with hearing of the Marriage Petition shall send the parties for mediation after obtaining their consents.

8. With the above direction, present MCA is allowed and disposed.

[MILIND N. JADHAV, J.]

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by RAVINDRA
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