

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 205 OF 2024

Asavari w/o. Nitin Hegade

.. Applicant

Versus

Nitin Balu Hegade

.. Respondent

-
- Mr. Shekhar V. Mane, Advocate i/by Mr. Shubham Vasekar for the Applicant.
 - None for Respondent.
-

CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 26, 2024.

P.C.:

- 1.** Heard Mr. Mane, learned Advocate for Applicant.
- 2.** Respondent – husband has been served. Affidavit of service has been filed. That apart, notice through the Court was issued on 08.05.2024 and Respondent has been served. The hearing of the Misc. Civil Application (for short “**MCA**”) cannot be protracted any further. Hence, MCA is taken up for hearing.
- 3.** Present MCA seeks transfer of Marriage Petition No.558 of 2022 filed by Respondent – husband pending before the Civil Judge Senior Division at Baramati, Dist. Pune to the Court of Civil Judge Senior Division at Barshi, Dist. Solapur where Applicant is residing.

4. Apart from the difficulty of hardship that would be encountered by the Applicant in travelling the distance from Barshi to Baramati, Applicant requires to provide care and support to her daughter who is a minor of 3 and half year old. That apart, Applicant has filed DV Act proceedings before the Judicial Magistrate First Class, Barshi, which she is prosecuting. The hardship of the Applicant is therefore clearly evident.

5. It is seen that Respondent has filed Civil Misc. Application No.107 of 2023 under the Guardianship and Wards Act, 1890 seeking custody of the child in the Court of Additional District Sessions Court at Baramati, Pune and considering the imprimatur of the Supreme Court in the case of *N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha*¹ in paragraph Nos.9 to 11 of the said decision, Applicant has made out a clear case for allowing transfer of the twin proceedings filed by Respondent – husband which would enure to reduce the hardship of Applicant.

6. For the sake of convenience and reference, paragraph Nos.9 to 11 in the case of *N.C.V. Aishwarya (supra)* are delineated herein under:-

“9. The cardinal principle for exercise of power Under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take

¹ AIR 2022 SC 4318

into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socio-economic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.

10. Further, when two or more proceedings are pending in different Courts between the same parties which raise common question of fact and law, and when the decisions in the cases are interdependent, it is desirable that they should be tried together by the same Judge so as to avoid multiplicity in trial of the same issues and conflict of decisions.

11. As noticed above, the Appellant is a young lady aged about 21 years, staying alone along with her aged parents. Under the above circumstances, it is difficult for her to travel all the way from Chennai to Vellore to attend the court proceedings of the case filed by the Respondent seeking annulment of marriage. Further, it is also just and proper to club all the three cases together to avoid multiplicity of the proceedings and conflict of decisions. Therefore, the High Court was not justified in rejecting transfer petition bearing TR.C.M.P.No. 473 of 2020, filed by the Appellant herein.

7. In view of the above, there can be no impediment in the facts and circumstances of the present case which are delineated in the MCA for allowing the present MCA. Hence, MCA stands allowed in terms of prayer clauses 'a' and 'c' which read thus:-

- "a) That this Hon'ble Court be pleased to pass appropriate order and direction directing the Hindu Marriage Petition No. 558/2022 pending before Hon'ble Civil Judge Senior Division at Baramati, Dist. Pune may transfer to Hon'ble Civil Judge Senior Division at Barshi, Dist. Solapur on such terms as this Hon'ble Court may deem fit and proper.*
- b) ...*
- c) That this Hon'ble Court be pleased to pass appropriate order and direction directing the Civil Misc. Application No. 107 of 2023 pending before Hon'ble Additional District Sessions Court at Baramati, Dist. Pune may*

*transfer to Hon'ble District and Sessions Court at Barshi,
Dist- Solapur on such terms as this Hon'ble Court may
deem fit and proper."*

8. MCA is allowed and disposed.

[MILIND N. JADHAV, J.]

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Date: 2024.09.27
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