

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 221 OF 2024

Prachi Sanjay Valecha .. Applicant
Versus
Sanjay Ashok Valecha .. Respondent

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• Mr. Yogesh B. Dandekar a/w Ms. Harshita Jangid for Applicant

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CORAM : MILIND N. JADHAV, J.

DATE : AUGUST 28, 2024

P. C.:

1. Heard Mr. Dandekar, learned Advocate for Applicant.
2. Mr. Dandekar has placed before this Court affidavit of service dated 13.06.2024 which shows that Respondent has been served. Facts in the present case require immediate intervention of the Court. Applicant is the wife who seeks transfer of Marriage Petition filed by Respondent husband in the Civil Court at Kalyan to the Family Court at Bandra. Applicant has already filed Marriage Petition in the year 2022 in the Family Court at Bandra. For a period of more than a year, Respondent did not appear in the said Marriage Petition proceedings despite being served. Respondent has in January 2024 filed a Marriage Petition against the Applicant in the Civil Court at Kalyan. When that Marriage Petition was served on the Applicant, she appeared before the said Court and informed the Court about

pendency of Misc. Civil Application (MCA) in view of her Marriage Petition filed in the Family Court at Bandra. Civil Court at Kalyan had passed order on 19.07.2024 observing that since there is no stay order in the MCA, the Marriage Petition filed by the Respondent husband will have to be proceeded with without the written statement of the Applicant. Accordingly, an order is passed that the said Petition be further proceeded without written statement of the wife.

3. Mr. Dandekar points out one more unnerving fact that in the Marriage Petition filed by the Respondent husband summons are served on the wife in March 2024 and returnable date is 05.04.2024 despite the Civil Court at Kalyan having been informed about pendency of the MCA, the order dated 19.07.2024 has been passed. Mr. Dandekar points out the fact that Respondent's Marriage Petition filed in Civil Court at Kalyan has proceeded without the mandatory provisions of directing the parties to counseling. The grounds in the Application are evident and they project the hardship of the Applicant. As observed by the Supreme Court in the case of **N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha**¹ 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

1 AIR 2022 SC 4318

the same Judge so as to avoid multiplicity in trial of the same issues and conflict of decisions. The grounds of hardship are stated in paragraph No. 10 of the Application. Though the proximity of distance between the two destinations is 44 kms only, one can imagine traveling in the local trains of Mumbai at any hour in today's time so as to understand the hardship faced by the person who travels. Mr. Dandekar has made out an arguable case for allowing the Application. There can be no impediment in allowing the present Application in the facts and circumstances of the present case looking to the convenience of the wife.

4. In view of the above observations and findings, the MCA is allowed int terms of prayer clause (a) which rads thus:

"(a) This Hon'ble Court by its order and / or directions be pleased to transfer the Marriage Petition No. 91 of 2024 pending before Civil Judge Senior Division, Kalyan at District Thane to Family Court at Bandra, Mumbai before 6th Judge."

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

[MILIND N. JADHAV, J.]

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