

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 236 OF 2024

Prajakta Tejas Parulekar

.. Applicant

Versus

Tejas Bhushan Parulekar

.. Respondent

-
- Ms. Vaishnavi Nagargoje a/w Mr. Bhushan Walimbe for Applicant
-

CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 26, 2024

P. C.:

1. Heard Ms. Nagargoje, learned Advocate for Applicant.
2. Present Misc. Civil Application is filed in May 2024 and notice was issued to Respondent and made returnable by order dated 09.05.2024. Matter appeared on 25.06.2024 on which date time was granted to Applicant to supply copies to the Registry. Thereafter matter was on board on 23.07.2024 on which date it was recorded that service is awaited. It was adjourned to 20.08.2024. Bailiff's remark dated 16.08.2024 shows that notice issued to sole Respondent at his Sindhudurg address has been returned unserved with the remark, "Door found locked. Respondent residing at Mumbai." Further notice issued to sole Respondent at his Mumbai address has been returned unserved with bailiff remark "Not residing at given address and whereabouts not known".

3. Ms. Nagargoje would inform the Court that Respondent has been served through WhatsApp and by email on 06.05.2024. She has placed before me proof of service made through WhatsApp and email. The service is effected by Advocate Mr. Parth Modak on behalf of Applicant to the Respondent. She would also submit that service effected on Respondent by Speed Post is returned back undelivered. I have perused the aforesaid steps taken to serve the Respondent. Applicant is directed to file affidavit of service in respect of the service effected through WhatsApp, email and Post within a period of one week from today. It clearly appears Respondent is evading service but has been served of the copy of Petitioner by WhatsApp and email.

4. Considering that Respondent has been served in the month of May 2024 and the fact that matter has reached in September 2024, hearing of the MCA cannot be protracted any further. Hence, MCA is taken up for hearing.

5. Present MCA seeks transfer of Marriage Petition filed by Respondent - husband filed before the Family Court at Bandra to the Court of Civil Judge Senior Division at Oros.

6. From proximity of distance which is clearly evident from the two destinations which the Applicant wife will have to undertake if she is required to travel all the way for 550 kms one way to attend the

proceedings in the Court at Bandra, hardship of the Applicant is thus clearly evident. That apart she would require accompaniment of an elder / parent considering her safety. Further she would have to incur substantial expenditure for the same which is clearly evident. Averments in the MCA show that Respondent is working in IndusInd Bank, Mumbai and is well placed. That apart in paragraph No. 3 it is stated that until 22.05.2024, Applicant was staying in Mumbai as a paying guest to pursue her higher education in Masters in Computer Application (MCA) from SNDT University, Mumbai. After completing the same, she has now returned back to her parents' house in Kudal near Oros. She is presently unemployed which also adds to her woes. Hardship of the Applicant is clearly evident and in view of the imprimatur of the Supreme Court in the decision in the case of **N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha**¹, inconvenience of wife will have to be looked at whenever the Court is confronted with such an Application for transfer depending upon an array of factors.

7. In view of the above, considering the hardship which would be evident from the above, there can be no impediment in allowing the present MCA. Hence, MCA is allowed in terms of prayer clause (a) which reads thus:-

"(a) That this Hon'ble Court be pleased to transfer the Marriage Petition No. A/2765/2023 pending before the Ld. Family Court, Bandra filed

¹ AIR 2022 SC 4318

by the Respondent under Section 12(1) (c) and (d) of the Hindu Marriage Act, 1955 to the file of the Ld. Civil Judge, Senior Division, Oros."

8. Both the concerned Courts shall take cognizance of a server copy of this order and shall not insist on a certified copy of the order and act accordingly for transfer and re-registration of the proceedings as expeditiously as possible and in any events within two weeks from the date of presentation of a server copy of this order to the Courts by the Advocates for the parties.

9. MCA is allowed and disposed.

Amberkar

[MILIND N. JADHAV, J.]

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