

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 318 OF 2024

Monali Honakatti alias
Monali Uttam Gavali

.. Applicant

Versus

Gururaj Honkatti

.. Respondent

.....

- Ms. Rutuja Khivansara for Applicant (through VC)
- Mr. Jayant J. Bardeskar for Respondent

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CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 2, 2024

P. C.:

1. Heard Ms. Khivansara, learned Advocate for Applicant and Mr. Bardeskar, learned Advocate for Respondent.

2. Present Misc. Civil Application (MCA) seeks transfer of Marriage Petition bearing M.P. No. 209/2023 filed by Respondent - husband before the CJSD, Ichalkaranji at Kolhapur to Family Court, Pune.

3. Application is made by Applicant - wife seeking transfer of Marriage Petition on the ground that she and her minor son aged 5 years are residing in Pune and she has recently procured a job offer as teacher in a school in Pune. Ms. Khivansara would draw my attention to the averments made in the Application which show that Applicant is a post-graduate and teacher by profession and she was in fact working as a PGT Computer teacher at Air Force School, Pune from 2014 till

October 2022 when she resigned due to her health issues. This itself shows that Applicant has been resident of Pune in the past and has probably chosen Pune as her destination for her future prospectus. Parties in the past have also cohabited and resided together in Pune since marriage.

4. *PER CONTRA*, Mr. Bardeskar in his usual fairness would submit that though Respondent is residing in Pune, he is working from home for a logistic company where he is employed at Pune. He would submit that there is one grievance expressed by Respondent and that is the averment made by Applicant in her Application with respect to procurement of a job offer in a school in Pune which is not qualified by placing on record the offer letter received by Applicant. He would submit that if that be the case, then case of the Applicant may not be believed.

5. I have perused the record of the case and heard learned Advocates appearing for parties. Apart from the fact that Respondent is well ensconced in Pune and working in an International Logistic Company, though he may claim to be working from home in Ichalkaranji, hardship of the Applicant is clearly evident not only from the grounds pleaded in the Application but also the fact that she is required to take care and support of her 5 year old son who resides with her as also the proximity of distance and commute between the

two destinations, if the Applicant is required to travel to attend Court proceedings in the Civil Court at Ichalkaranji. Considering the ethos of the provisions of Section 24 of CPC consideration of hardship of Applicant - wife in such circumstances is not only clearly evident but stands proved by Applicant. I have no reason to disbelieve the averments made in the Application. Assuming for the sake of argument that offer letter from the school is not even produced on record, still it makes out a case for consideration in favour of Applicant as her hardship will undoubtedly in that case increase. Be that as it may, in view of my observations, I am inclined to allow the present Application seeking transfer of Marriage Petition from the Civil Court of CJSD, Ichalkaranji at Kolhapur to the Family Court, Pune as prayed for.

6. As such, Application is allowed and disposed of in terms of prayer clause (a) which reads as under:-

“(a) This Hon'ble Court be pleased to transfer the marriage petition bearing M.P No. 209/2023 filed by the Respondent husband before the Hon'ble C.J.S.D., Ichalkaranji at Kolhapur to Family Court, Pune.”

7. Registrar of CJSD, Ichalkaranji seized of Marriage Petition shall ensure that the Petition is transferred to the Family Court at Pune as expeditiously as possible and in any event within a period of two weeks from today on production of a server copy of this order. Learned Family Court, Pune shall take immediate cognizance of the Marriage

Petition, register the same and proceed with the same strictly in accordance with law.

8. Both learned Advocates make a joint request that considering the timeline and the fact that they have a 5 year old son, directions for expeditious determination of the Marriage Petition be passed. Adhering to the request made by both parties and more specifically in view of the reasons mentioned by both learned Advocates, learned Family Court, Pune is requested by this Court to decide the Marriage Petition between the parties as expeditiously as possible and preferably within a period of one year from today.

9. This Court appreciates the conduct of Mr. Bardeskar, learned Advocate for Respondent for making pointed submissions and objections rather than unnecessary submissions which normally observed in such Transfer Applications before me.

10. With the above directions, MCA is allowed and disposed.

[MILIND N. JADHAV, J.]

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