

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 346 OF 2024

Dr. Ruchit Bharat Patel

.. Applicant

Versus

Dr. Tanvi Ruchit Patel & Ors.

.. Respondents

.....

- Ms. Pooja Shah a/w J.K. Shah & Mr. Mohit Darji for Applicant
- Mr. Vaibhav S. Parab for Respondent No. 1

.....

CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 27, 2024

P. C.:

1. Heard Ms. Shah, learned Advocate for Applicant and Mr. Parab, learned Advocate for Respondent No. 1.

2. Present Misc. Civil Application (MCA) seeks transfer of the D.V. Act proceedings filed by Respondent - wife in the Metropolitan Magistrate Court at Girgaon to the Family Court at Bandra. Both parties are residents of Mumbai.

3. Ms. Shah would submit that Respondent - wife has filed Marriage Petition in Family Court at Bandra, Mumbai. Further she would inform the Court that Applicant - husband has filed Custody Petition in the Family Court at Bandra. She would submit that in view of these twin proceedings being heard by the Family Court at Bandra, D.V. Act proceedings may also be transferred to the Family Court at Bandra considering the fact that issues in the said proceedings would

be interdependent on each other and in order to avoid conflict of decisions through different Courts.

4. *Per contra*, Mr. Parab would submit that his principal objection is that Respondent - wife has filed a substantive Interim Application seeking maintenance from the Applicant - husband in the Family Court at Bandra. This Interim Application is filed in the Marriage Petition in the year 2023. He would submit that in view of the said Interim Application not being heard, it is prejudicial to Respondent - wife as she is required to provide support and care for her minor child. The submissions made by Mr. Parab undoubtedly appealed to the Court. However, only on the aspect of ensuring that there is no multiplicity of trials on the same issues and conflict of decisions of two different Courts, the transfer of D.V. Act proceedings from the Court at Girgaon to the Family Court, Bandra will have to be allowed. Grievance raised by Respondent - wife is also required to be considered and addressed by the Court. In that view of the matter, I am inclined to pass the direction to the Family Court at Bandra to hear and decide the Interim Application for maintenance filed by the Respondent - wife in the Marriage Petition before the Family Court at Bandra as expeditiously as possible and in any event within a time bound programme. Mr. Parab informs the Court that said Interim Application is listed before the Family Court on 04.10.2024.

5. In view of my above observations and findings, present MCA is allowed in terms of prayer clause (a) which reads thus:-

"(a) That this Hon'ble Court be pleased to direct the transfer of Complaint Case No. 25/DV/2024 pending on the file of Ld. Metropolitan Magistrate 4th Court, Girgaon, Mumbai to the Hon'ble 6th Family Court at Bandra, Mumbai to be heard and decided with Petition No. D-19 of 2023 and A-3809 of 2022."

6. All 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 event within two weeks from the date of presentation of a server copy of this order to the Courts by the Advocates for the parties.

7. That apart I direct the learned Family Court at Bandra to hear the Interim Application filed by Respondent - wife in the Marriage Petition which is slated to be heard on 04.10.2024 as expeditiously as possible and in any event within a period of three weeks thereafter by ensuring that both the parties are heard and a speaking order is passed therein. This will enure to ameliorate the difficulties and hardship of the Respondent - wife in the present case and maintain the balance convenience between the parties.

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

[MILIND N. JADHAV, J.]

Amberkar

Digitally signed
by RAVINDRA
MOHAN
AMBERKAR
Date:
2024.09.30
11:33:13
+0530