

Ajay

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

MISC. CIVIL APPLICATION NO. 347 OF 2024

Sonali Sagar Bhokare	.. Applicant
Versus	
Sagar Ramesh Bhokare	.. Respondent

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- Ms. Sangita Choure, Advocate for Applicant.
 - Mr. Rahul Khot, Advocate for Respondent.
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CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 05, 2024.

P.C.:

1. Heard Ms. Choure, learned Advocate for Applicant and Mr. Khot, learned Advocate for Respondent.

2. Present Misc. Civil Application (for short “MCA”) seeks transfer of Divorce Petition No. A-358 of 2023 pending on the file of the Principal Judge, Family Court – 1 at Sangli instituted by Respondent – husband against the Applicant – wife to the Family Court, Solapur.

3. The irony in the present case is that the said proceedings were adjourned for ex-parte judgment only on hearing the Respondent – husband and his Counsel on 26.07.2024 to the next date i.e. 21.08.2024. In the meanwhile, this Court was apprised of the same in the present MCA and this Court immediately granted stay to the

proceedings before the Family Court at Sangli.

4. Apart from the proximity of distance between the two destinations the hardship of the Applicant – wife is evident. Applicant is residing alongwith her old parents and has taken a private job temporarily in Solapur as averred in the MCA. That apart, she has filed proceedings under the DV Act before the Chief Judicial Magistrate, Solapur. It is seen that Respondent filed Marriage Petition under Section 9 of the Hindu Marriage Act, 1955 on 19.11.2019 and the same has been decreed *ex-parte* in favour of Respondent on 19.08.2022. Applicant gathered about the passing of the said order, only when she sought legal aid from the State Government to file the present MCA. The same *modus operandi* is apparently tried to be used by the Respondent for decreeing the Marriage Petition also. It is evident when the order dated 21.08.2024 passed by the Family Court at Sangli is seen.

5. I have taken on record the Affidavit-in-Reply on behalf of the Respondent – husband dated 04.09.2024 and perused the same. As usual what is observed by me repeatedly in several similar matters is that Respondent has given reasons for disallowing the MCA. According to Respondent, the proximity of distance between the two destinations i.e. Solapur and Sangli is easily and very much accessible by public and private transport and Respondent has the audacity to

state that whenever Applicant would attend the proceedings in Sangli, there is no need to stay in Sangli because of availability and accessibility of public transport being frequently available and the travelling fare is less. Questions of hardship remains unaddressed.

6. The convenience of Applicant – wife and considering the proximity of 200 kms. distance between the two destinations is clearly evident. That apart, not only the Applicant would have to travel, but she would require the company of some family member for the hearings to be attended in Sangli. Applicant's financial condition also does not permit the Applicant to travel frequently.

7. That apart, what I am required to consider in the present MCA is the exercise of power of the Court under Section 24 of the Code of Civil Procedure, 1908 and more specifically so when it involves matrimonial matters. The Supreme Court has laid down the extant principles and parameters in the case of *N.C.V. Aishwarya Vs. A. S. Saravana Karthik Sha*¹ that in matrimonial matters, wherever Courts are called upon to consider the plea of transfer, an array of factors affecting the parties would have to be considered from all perspectives including the socio-economic paradigm in our country and wife's convenience must be looked at while considering transfer. Such is the case before me. Respondent in the present case has taken undue advantage of the helplessness and vulnerability of the Applicant – wife.

¹ AIR 2022 SC 4318.

He has obtained an *ex-parte* judgment during the covid period in the Marriage Petition filed under Section 9 of the Hindu Marriage Act, 1955. It appears that he is following the same route in the present case also.

8. In view of the above observations and findings, this is a fit case which requires intervention by this Court and deserves to be allowed. That apart, this is also a case where certain further directions will have to be passed by this Court in order to ensure that the Applicant – wife is represented adequately.

9. Today, it is only the effort of Ms. Choure, learned Advocate for the Applicant who has been appointed through the Legal Aid Services Committee that this order is passed. This Court appreciates the effort taken by the learned Advocate for Applicant in bringing to the notice of this Court the facts which are referred to and alluded to herein above.

10. In that view of the matter, MCA stands allowed in terms of prayer clause ‘i’ which reads thus:-

“(i) This Hon'ble Court be pleased to transfer the Divorce Petition No A 358/2023 filed by the Respondent and pending before the Family Court at Sangli, to the Principal Judge and other Judges of the Family Court, Solapur.”

11. That apart, there is further direction issued to the JMFC, Solapur who is seized with the hearing of DV Act Application No.8 of

2020 filed by the Applicant – wife to transfer the said proceedings to the Family Court at Solapur. The learned Family Court at Solapur is directed to hear the Marriage Petition which shall be transferred from the Court in Sangli alongwith this DV Act proceedings together and decide the same together in accordance with law.

12. The District Legal Services Authority, Solapur and In-charge of the said Authority is directed by this Court to specifically ensure that the Applicant – wife is represented by an Advocate in the proceedings on all dates.

13. The learned Family Court at Solapur shall act on a server copy of this order and ensure that at no point of time the Applicant goes unrepresented which has unfortunately happened till date in the present case in the Court at Sangli.

14. A server copy of this order shall also be served on the District Legal Services Authority, Solapur by the Registrar of this Court with a direction to ensure that the Applicant is duly represented by an Advocate from the Legal Services Authority appointed to represent the Applicant – wife immediately.

15. With the above observations and directions, MCA is allowed and disposed.

[MILIND N. JADHAV, J.]

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