

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 362 OF 2024

Sunita Premkishore Jadhav

.. Applicant

Versus

Premkishore Shankar Jadhav

.. Respondent

-
- Mr. Abhang Suryawanshi, Advocate i/by Mr. Narayan Rokade for Applicant.
 - Mr. Rajan Gupta, Advocate for Respondent.
-

CORAM : MILIND N. JADHAV, J.

DATE : AUGUST 29, 2024.

P.C.:

1. Heard Mr. Suryawanshi, learned Advocate for Applicant and Mr. Gupta, learned Advocate for Respondent.
2. I have heard this Misc. Civil Application No.362 of 2024 (for short “MCA”) on 16.08.2024 and the following order was passed:-

“1. Heard Mr. Suryawanshi, learned Advocate for Applicant.

2. Miscellaneous Civil Application is filed by wife for seeking transfer of Marriage Petition from Family Court, Pune to Family Court, Bandra. Ground of hardship is enumerated in paragraph No.4 under the caption of ‘Grounds’ as stated on running page No.7 of the Application. The ground that is mentioned is the harsh reality of life and it has to be considered. Prima facie, an arguable case is made out by Applicant for issuance of notice to Respondent.

3. Hence, Issue notice to Respondent. Humdast permitted. In addition to Court’s notice, Applicant is directed to serve the Respondent a copy of this order and copy of the Miscellaneous Civil Application and inform him about the next date of hearing by any permissible mode of service and file appropriate affidavit of service with tangible proof thereof. Respondent is directed to

file Affidavit-in-reply to the Miscellaneous Civil Application on or before the next date.

4. Respondent shall take cognizance of Application and this order which shall be served by Advocate for Applicant. Respondent is directed to raise his objections, if any, on the next date.

5. It is clarified that this Court shall pass appropriate orders for disposal of the application on the next adjourned date after hearing the Respondent.

*6. Stand over to **23rd August, 2024.***”

3. Today, appearance is entered by Advocate Mr. Gupta on behalf of Respondent.

4. On pointing out the grounds of hardship enumerated in the MCA and seeking objections on behalf of the Respondent, Mr. Gupta, learned Advocate would at the outset submit that he needs to file Affidavit-in-Reply to oppose the MCA for which he seeks one week time.

5. On being asked by the Court to justify the objection that he desires to raise in the MCA, he would submit that Respondent has recently undergone some serious medial ailment / treatment for L-3 and L-4 vertebrae and is therefore advised bed rest and also not to travel. That apart, there is no other reason for objection. Undoubtedly, this Court accepts the submissions made by Mr. Gupta and shall appropriately deal with the same so as to ensure that Respondent is not put to any undue medical issue or problem.

6. Mr. Suryawanshi draws my attention to the MCA and the grounds specified therein. Apart from the proximity of distance between the two destinations, the financial and economic condition of the Applicant as enumerated by her as also she requiring to care and support her toddler daughter and her convenience needs immediate consideration.

7. The grounds of hardship are clearly evident and in view of the decision of the Supreme Court in the case *N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha*¹, Supreme Court has held that in matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. The Supreme Court has further held that given the prevailing socio-economic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.

8. In so far as the objection raised by Respondent is concerned that can be addressed by directing the learned Family Court at Bandra, Mumbai to permit and allow the Respondent to appear on VC on

¹ AIR 2022 SC 4318

the scheduled dates of hearing.

9. Needless to state that Respondent will have to make an appropriate Application in accordance with law to the concerned Family Court, Bandra, if so desired to appear on VC. I am also not inclined to give time to Respondent to file any Affidavit-in-Reply as considering the grounds enumerated in the MCA under the provisions of Section 24 of the Code of Civil Procedure, 1908 (for short “**CPC**”), the MCA deserves to be allowed for the ends of justice which clearly demand the transfer of the Marriage Petition from the Family Court, Pune to the Family Court, Bandra, Mumbai.

10. In view of the above observations and findings, Applicant has made out a case for allowing the MCA. MCA stands allowed in terms of prayer clause (c) which reads thus:-

“(c) By issuance of appropriate order and/or directions in the like nature, the proceeding bearing Petition A No. 2215 of 2023 pending Ld. Family Court, Pune may kindly be transferred to Ld. Family Court, Bandra in the interest of justice.”

11. In view of the above, MCA is allowed and disposed.

[MILIND N. JADHAV, J.]

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