

Ajay

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

MISC. CIVIL APPLICATION NO. 396 OF 2024

Shekhar Suresh Zanjare

.. Applicant

Versus

Sandhya Shekhar Zanjare

.. Respondent

-
- Mr. Sachin Padaye a/w. Mr. Rohit Gorade, Advocates for Applicant.
-

CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 05, 2024.

P.C.:

- 1.** Heard Mr. Padaye, learned Advocate for Applicant.
- 2.** Present Misc. Civil Application (for short “MCA”) seeks transfer of Misc. Cri. Application No.784 of 2015 filed by Respondent - wife pending before the Judicial Magistrate First Class, Nashik to the Family Court at Nashik Road, Nashik.
- 3.** The entire ethos of the MCA is infact conducive and helpful to the Respondent herself. One of the submission made by the learned Advocate which appeals to the Court is that the Marriage Petition seeking dissolution of marriage is pending in the Family Court at Nashik filed by Applicant – husband.
- 4.** He would next submit that proceedings under Section 9 of the Hindu Marriage Act, 1955 filed by Respondent – wife is pending in

the Family Court. That apart, he would submit that proceedings under Section 125 of the Code of Criminal Procedure, 1973 filed by Respondent – wife are also pending in the Family Court and the Family Court is hearing the aforesaid three proceedings together.

5. In that view of the matter, he would submit that present MCA is filed for transfer of the DV Act proceedings filed by the Respondent – wife before the JMFC, Nashik to the Family Court, Nashik Road, Nashik.

6. Learned Advocate would inform the Court that this Court may take into cognizance of the principles laid down by the Supreme Court in the case of *N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha*¹ in paragraph Nos.9 to 12 thereof, wherein the Supreme Court holds that the principle for exercise of power under Section 24 of the CPC is that ends of justice should demand the transfer of the Suit, Appeal or other proceeding. It further holds that in matrimonial matters, wherever Courts are called upon to consider the plea of transfer, 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 in life.

¹ AIR 2022 SC 4318

7. Mr. Padaye, learned Advocate for Applicant – husband would submit that it is desirable that all cases should be clubbed together and tried together by the same Judge / Court so as to avoid multiplicity in trial on the same issues and avoid conflict of decisions. He would submit that this is the case where two proceedings filed by Respondent - wife alongwith one proceedings filed by Applicant – husband are pending before the Family Court and therefore pendency of the DV Act proceedings filed by Respondent – wife in the Court at JMFC, Nashik is not desirable at all.

8. He would next submit that in the interest of justice of the wife herself, it would be desirable that the DV Act proceedings filed under Section 12 by the Respondent – wife be transferred to the Family Court at Nashik. Submissions made by the learned Advocate appeal to the Court for one reason that is it would enure to the benefit of Respondent – wife herself. We cannot have multiplicity of trial and decisions by two different Courts.

9. There is one child born out of the wedlock to the parties who is incidentally residing with the Applicant – husband. Be that as it may, it would enure to the benefit of both parties to have all four proceedings between the two parties to be heard and decided by the Family Court at Nashik. This Court certainly can pass order of clubbing all proceedings for them to be heard together.

10. In view of the above, I am of the opinion that the grounds of hardship to be considered qua the provisions of Section 24 of the CPC which is called upon to be decided by the Applicant by his Application will far outweigh any apprehensions expressed by Respondent to oppose the Application. I am inclined to accept the submissions made by the learned Advocate for Applicant as they enure to the benefit of the Respondent – wife.

11. In view of the above observations and directions, MCA stands allowed in terms of prayer clause ‘b’ which reads thus:-

“(b) Pass an appropriate order directing the transfer of Misc. Cri. Application No.784 of 2015 pending before Ld. Judicial Magistrate First Class, Nashik to the Family Court at Nashik Road, Nashik.”

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

[MILIND N. JADHAV, J.]

Ajay

AJAY
TRAMBAK
UGALMUGALE
Digitally signed by
AJAY TRAMBAK
UGALMUGALE
Date: 2024.09.06
11:07:31 +0530