

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO.428 OF 2024

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Vaibhav Vasant Ghatge

...Applicant

vs.

Swarada Vaibhav Ghatge

...Respondent

Mr. Vishal Dushing a/w. Mr. Vaibhav Salvi, Mt. Ashwet Bhoir, for the Applicant.

Mr. Akshay Kulkarni, for Respondent.

CORAM : N. J. JAMADAR, J.

DATE : JANUARY 17, 2025

P.C:

1. This is an application under section 24 of the Code of Civil Procedure, 1908 for transfer of the Marriage Petition No. A-54 of 2022 pending on the file of Family Court at Sangli to the Family Court at Pune.

2. The marriage of the applicant was solemnized with the respondent on 20th June, 2010. The applicant and respondent were blessed with a son, on 15th June, 2011. The applicant and respondent had been residing and working at Pune since their marriage.

3. In the wake of marital discord, the respondent allegedly left the matrimonial home on 16th June, 2018. The respondent has filed Cri. M.A. No. 51471 of 2018 under the provisions of Protection of Women From Domestic Violence Act, 2005 before the Court at Pune. Another prosecution, being RCC No. 556 of 2019, arising out of FIR

lodged by the respondent, for the offence punishable under sections 498A, 323, 504 and 506 read with 34 of Indian Penal Code, 1860 is pending before the Court of Magistrate at Pune. The respondent has also instituted a Marriage Petition No. A-54 of 2022 before the Family Court at Sangli for a decree of dissolution of marriage.

4. The applicant has preferred this application asserting that the applicant and respondent both are residing at Pune. Their son is studying in a school at Pune. The Marriage Petition No. A-54 of 2022 has been instituted before the Family Court at Sangli with a view to harass the applicant.

5. The learned counsel for the respondent submitted that though it can not be disputed that respondent and her son are residing at Pune and the son is studying in a school at Pune, yet, the respondent would suffer prejudice if the petition is transferred to Family Court at Pune. Since the parents of the respondent reside at Sangli, it suits the convenience of the respondent to prosecute the said petition for divorce at Sangli.

6. I am afraid to accede to the aforesaid submission. It is true, ordinarily, in the matter of transfer of proceeding arising out of matrimonial disputes, the inconvenience of wife commands general precedence. However, in the instant case, it appears, after the marriage, the parties resided within the jurisdiction of Family Court

at Pune for several years. The applicant and respondent had been working at Pune. Even the son of the applicant and respondent is studying in a school at Pune. In this backdrop, the resistance to the transfer of the proceeding from the Family Court at Sangli to Family Court at Pune appears rather inexplicable. In fact, both the applicant and respondent would suffer inconvenience and hardship if the petition is tried at the Family Court at Sangli. The fact that the parents of the respondent are staying at Sangli cannot have overriding consideration. I am, therefore, persuaded to allow the application.

Hence, the following order.

ORDER

- 1] The application stands allowed in terms of prayer clause (a).
- 2] The Marriage Petition No. A-54 of 2022 pending on the file of learned Judge, Family Court at Sangli be transferred to the Family Court at Pune for hearing and disposal in accordance with law.
- 3] The learned Judge, Family Court, Sangli shall transfer the record and proceedings in Marriage Petition No. A-54 of 2002 with such dispatch that it reaches the Family Court at Pune within a period of four weeks from the date of communication of this order.

Application disposed.

(N. J. JAMADAR, J.)