

(2023) 08 GUJ CK 0039

In the Gujarat High Court

Case No : R/Misc. Civil Application No. 1163 Of 2023

Chetna W/O. Rahul Jolapara, D/O. Jayeshbhai Sitapar

APPELLANT

Vs

Rahul Ravibhai Jolapara

RESPONDENT

Date of Decision : 18-08-2023

Acts Referred:

Code Of Civil Procedure, 1908 — Section 24

Citation : (2023) 08 GUJ CK 0039

Hon'ble Judges : Ilesh J. Vora, J

Bench : Single Bench

Advocate : Raksha S Dikshit

Final Decision : Disposed Of

Judgement

Ilesh J. Vora, J

1. This application is filed under Section 24 of the Code of Civil Procedure, 1908 by the applicant-wife to transfer HMP Suit No.13 of 2023 2023 from the Court of Additional Senior Civil Judge, Anjar-Kutch to the Family Court at Rajkot.

2. Heard learned counsel for and on behalf of the applicant. Though served none has appeared for and on behalf of the respondent husband.

3. Facts and circumstances giving rise to filing of the present application are that the respondent husband has filed petition i.e. HMP Suit No.13 of 2023 and the same is pending before the Additional Senior Civil Court, Anjar-Kutch. The applicant is a doctor by profession and is a very busy person and therefore, it is not possible to attend the Court at Anjar, Kutch on each and every adjournment. It is difficult for the applicant wife to travel from Rajkot to Anjar-Kutch for each and every date and Anjar, Kutch is far away from Rajkot and the distance between Anjar-Kutch to Rajkot is about 192 kmt.

4. In these background of facts, the applicant herein has preferred the present petition. It is difficult for her to attend the Court proceedings at Anjar-Kutch.

5. The law with respect to transfer of proceedings, particularly matrimonial disputes, is no longer res-integra. Hon'ble Supreme Court in Sumitha Sing vs. Kumar Sanjay, [2002 KHC 1889], Mona Aresh Goel v. Aresh Satya Goel, [2000 KHC 1835], Vaishali Shridhar Jagtap vs. Shridhar Vishwanath Jagtap, [2016 KHC 6489], Santhini V. Vijaya Venkatesh, [2017 (5) KHC 48] and Asiwarya N.C.V. v. A.S. Saravana Karthik Sha, [2022 (5) KHC 185 (SC)] held that it is the convenience of the woman and children that has to be looked into, while ordering the transfer of a case from one Court to another.

6. In light of the law laid down in the aforementioned decisions, pleadings, the material on record and the totality of the facts and circumstances of the case, particularly, the inability of the applicant to travel and appear before the Court at Anjar, Kutch and to meet the expenses of travel, I am inclined to allow this application.

7. Accordingly, the application is allowed. HMP Suit No.13 of 2023 is transferred from the Court of Additional Senior Civil Judge, Anjar, Kutch to the Family Court at Rajkot. Learned Additional Senior Civil Court, Anjar, Kutch shall transmit the case record to the Family Court at Rajkot.

8. Application stands disposed of accordingly.