

(2023) 08 GUJ CK 0031

In the Gujarat High Court

Case No : R/Misc. Civil Application No. 1056 Of 2023

Niyati Jitendrabhai Shah @ Niyati Rinkesh Makwana

APPELLANT

Vs

Rinkesh Rohitbhai Makwana

RESPONDENT

Date of Decision : 07-08-2023

Acts Referred:

Citation : (2023) 08 GUJ CK 0031

Hon'ble Judges : Ilesh J. Vora, J

Bench : Single Bench

Advocate : NL Ramnani

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 Family Suit No.65 of 2023 from the Family Court, Bhavnagar to the Family Court at Ahmedabad.

2. Heard Mr. NL Ramnani, 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 Family Suit No. 65 of 2023 and the same is pending before the Family Court, Bhavnagar.

4. In these background of facts, the applicant herein has preferred the present application. She is having no substantial income and it is difficult for her to attend the Court proceedings at Family Court at Bhavnagar.

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 Bhavnagar and to meet the expenses of travel, I am inclined to allow this application.

7. Accordingly, the application is allowed. Family Suit No.65 of 2023 is transferred from the Family Court at Bhavnagar to the Family Court at Ahmedabad. Learned Family Court, Bhavnagar shall transmit the case record to the Family Court at Ahmedabad.

8. Application stands disposed of accordingly.