
(2009) 02 BOM CK 0084

In the Bombay High Court

Case No : Writ Petition No. 2536 of 2008

Shruti Shriram Jangam

APPELLANT

Vs

Shriram Balkrushn Jangam

RESPONDENT

Date of Decision : 09-02-2009

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 24
Hindu Marriage Act, 1955 — Section 13(1), 19

Citation : (2009) 6 BomCR 433 : (2010) 5 RCR(Civil) 9

Hon'ble Judges : Borde R.M., J

Bench : Single Bench

Advocate : Ajay Shinde, a/h., B.L. Sagar Killarikar, for the Appellant;

Final Decision : Allowed

Judgement

Borde R.M., J.—Heard Shri Ajay Shinde, learned Counsel holding for Shri B.L. Sagar Killarikar, Advocate for the petitioner. Respondent, though served, is absent.

2. Rule, made returnable forthwith and heard finally.

3. Petitioner, in this petition, has requested the Court to direct transfer of proceedings presented by respondent - husband in the Court of Civil Judge, Senior Division, Ratnagiri, being H.M.P. No. 127 of 2007, to the Court of Civil Judge, Senior Division at Jalna.

4. Petitioner and respondent are wife and husband inter se. Their marriage was solemnised as per Hindu rites on 19.12.2004 at Jalna. Parties cohabited for some time but thereafter there was some disharmony between them and as such, petitioner-wife was required to leave the matrimonial home. It is contended by the petitioner that she is presently residing at Jalna with her brother and parents. Respondent presented a petition in the Court of Civil Judge, Senior Division, Ratnagiri u/s 13(1) of the Hindu Marriage Act, 1955, seeking decree of divorce. Petitioner - wife has filed say to the petition presented by respondent -

husband. The proceedings pending before the Court at Ratnagiri are at initial stage and recording of evidence has not yet commenced.

5. The grievance of the petitioner, in this petition, is that the place, where matrimonial dispute is presented, is more than 650 KMs from the place where she is presently residing. It is contended that she is a lady dependant upon her brother and parents and is staying at Jalna. It is contended that her parents are aged and she, along with them, is not in a position to travel a long distance. It is the contention of petitioner that in view of provisions of Section 19 of the Hindu Marriage Act, the Court at Jalna also has jurisdiction to entertain the petition as the marriage between parties was solemnised at Jalna. Looking to the difficulties faced by the wife, it is contended that petition presented at Ratnagiri be directed to be transferred to the Court of Civil Judge, Senior Division at Jalna, in exercise of powers u/s 24 of the Code of Civil Procedure.

6. Notice was directed to be issued to the respondent on 31.3.2008 by this Court. However, in spite of notice, respondent has not caused his appearance. Again, this Court, on 7.7.2008, directed reissuance of notice with intimation to the respondent to cause appearance as the petition would be taken up for final disposal at the admission stage. However, in spite of notice on second occasion, respondent has failed to appear. The matter is, therefore, taken up for disposal in the absence of respondent.

7. It is stated in the Hindu Marriage Petition itself that the marriage between parties was solemnised at Pratapeshwar Mandir, Jalna on 19.12.2004. In view of the provisions of Section 19 of the Hindu Marriage Act, petition can be presented to such District Court within whose local limits of Ordinary Original Civil Jurisdiction the marriage was solemnised. The Court at Jalna, therefore, will have jurisdiction to entertain the petition. The difficulties stated by the wife, in this petition, are also required to be taken into consideration. The contentions raised by the petitioner, in this petition, are not controverted by the respondent. It is stated by the petitioner that she is dependant upon her brother and is staying at present at Jalna. It is further contended that her parents are aged and it would be difficult for her to undertake the journey on the date prescribed in the matter covering a distance of 650 KMs along with her parents or other relatives. The financial condition of the petitioner is also not sound, as she is not employed or that she has no other independent source of income. Taking into consideration all these circumstances, request made by the petitioner can be considered favourably.

8. Learned Counsel for the petitioner has placed reliance on the order passed by the Apex Court in the matter of another Sumita Singh Vs. Kumar Sanjay and Another, , wherein the Apex Court has observed that convenience of the wife must be looked at in the matter of transfer of matrimonial proceedings. The order passed by the Apex Court, in the aforesaid matter, has been taken into account while rendering decision by this Court in the matter of Anisha Sanjay Hinduja Vs. Sanjay Shrichand Hinduja, . In similar circumstances, this Court has

directed transfer of matrimonial proceedings from Pune to Family Court at Bandra.

9. Taking into consideration all these relevant circumstances, I deem it appropriate to grant the request made by petitioner in this petition.

10. Writ petition is, therefore, allowed. The proceedings presented by respondent - husband in the Court of Civil Judge, Senior Division, Ratnagiri, being H.M.P. No. 127/2007, shall stand transferred to the District Court at Jalna. The Court at Jalna shall proceed to decide the matter in accordance with provisions of law.

11. Rule is accordingly made absolute.

There shall be no order as to costs.