NC: 2024:KHC-K:4104
CP No. 200058 of 2023

IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 21ST DAY OF JUNE, 2024

BEFORE

THE HON'BLE Mrs. JUSTICE K.S. HEMALEKHA

CIVIL PETITION NO.200058/2023 (RES)

BETWEEN:

SMT. ASHWINI SINGAI
W/O MANJUNATH SINGAI,
AGED ABOUT 37 YEARS, OCC: HOUSEWORK,
R/O. C/O. RAMESH SHANKAR RAO GAVALI,
152A, PLOT NO.19,
NEAR SHIVAJI UNIVERSITY ROAD,
BEHIND SAHU NAKA,
HANUMAMNAGAR,
UJALAWADI,
TALUK KARVEER,
DISTRICT KOLHAPUR-416004
ALSO STAYS IN FLAT NO.503,
MYTHRI APARTMENT,
OPP: AGRICULTURE UNIVERSITY,
LINGASUGUR ROAD,
RAICHUR-584104,
RAICHUR TALUK AND DISTRICT.

...PETITIONER

(BY SRI RAVINDRA D.K., ADVOCATE)

Digitally signed by SUMITRA SHERIGAR
Location: HIGH COURT OF KARNATAKA

AND:

SRI MANJUNATH SINGAI
S/O BASAVARAJ SINGAI
AGED ABOUT 44 YEARS,
OCC: SERVICE DGM IN CANARA BANK,
R/O. PLOT NO.90, RUKMINI NAGAR,

M.M. EXTENSION,
BELAGAVI-590016.
PRESENTLY RESIDING IN ROOM NO.207,
SANTOSHI SAROVAR,
STATION ROAD,
RAICHUR-584103.

…RESPONDENT

(BY SRI BHEEMARAYA M.N., ADVOCATE)

THIS CIVIL PETITION IS FILED U/S. 24 OF THE CPC, PRAYING TO, TRANSFER THE CASE IN M.C NO. 31/2023, PENDING BEFORE THE PRINCIPAL JUDGE, FAMILY COURT BELAGAVI TO THE COURT OF THE PRINCIPAL JUDGE, FAMILY COURT, RAICHUR.

THIS PETITION, COMING ON FOR REPORTING SETTLEMENT, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The present Civil Petition is filed by the wife seeking transfer of MC No.31/2023 pending on the file of Principal Judge, Family Court, Belagavi, to the Court of Principal Judge, Family Court, Raichur.

2. Heard learned counsel Sri Ravindra D.K., for the petitioner and learned counsel Sri Bheemaraya M.N., for the respondent.

3. Petitioner is the legally wedded wife of the respondent; their marriage was solemnized on 18.12.2005 as per the customs prevailing in their community, and from the wedlock they have two children. MC No.31/2023 is filed by the respondent-husband seeking for divorce before the Family Court, Belagavi and notice/summons of a petition was served upon the petitioner. Since, the petitioner was interested in joining matrimonial home she filed petition for restitution of conjugal rights in MC No.101/2023 before the Principal Judge, Family Court, Raichur and also filed maintenance case in Crl.Misc. No.292/2023 before the Family Court, Raichur.

4. Learned counsel for the petitioner would submit that the travel distance between Raichur where the petitioner is residing to Belagavi is around 350 kilometers and she has minor son making it more difficult for the petitioner to travel from Raichur to Belagavi to attend proceedings initiated by her husband.

5. Per contra, learned counsel for the respondent would submit that the petitioner can very well attend the proceedings at Belagavi and there cannot be any inconvenience

caused to her, merely because of the distance and the civil petition needs to be rejected.

6. Section 24 of the Code of Civil Procedure enumerates this Court to exercise power to transfer the petition, suit, appeal or other proceedings where justice demands. In transfer petition, where the transfer is sought by the wife, the convenience of wife needs to be considered rather than the inconvenience that would be caused to the husband as held by Apex Court in catena of judgment in line, the Apex Court in case of ***N.C.V. AISHWARYA VS. A.S.SARAVANA KARTHIK SHA***[1] at para No.9 has held as under:

> *"9. The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the 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*

[1] *2022 SCC OnLine SC 119*

seeking their sustenance to life. Given the prevailing socio- economic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer."

7. In the instant case, travel distance from Raichur to Belagavi is more than 350 kilometers on one side, petitioner has minor child, petitioner wife has filed petition seeking restitution of conjugal rights and maintenance petition before the Family Court, Raichur is pending consideration. For the foregoing reasons stated supra, this Court is of the considered view that the petition seeking to transfer needs to be allowed. Accordingly, this Court pass the following:

ORDER

a) The Civil Petition is ***allowed***.

b) The M.C.No.31/2023 pending on the file of the Principal Judge, Family Court, Belagavi is withdrawn and transferred to the Principal Judge, Family Court, Raichur.

c) Parties to appear before the Principal Judge, Family Court, Belagavi on 08.07.2024 without waiting for further notice from the Court.

Sd/-
JUDGE

SBS
List No.: 1 Sl No.: 43
CT: VD