

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. 3702 OF 2017
(Arising out of SLP(C) No. 2380 of 2016)

P.AYYANAR POTHI ... Appellant(s)

Versus

SUPRIYA AYYANAR POTHI ... Respondent(s)

O R D E R

Leave granted.

This appeal has been filed by the appellant-husband challenging the validity of the impugned order dated 9th September, 2015 passed by the High Court of Bombay, Aurangabad.

The controversy in this case is that the respondent-wife has filed Miscellaneous Civil Application No. 132 of 2015 before the High Court of Bombay, Bench at Aurangabad seeking transfer of the divorce petition bearing HMOP No. 224 of 2013 filed by the appellant-husband before a Subordinate Court at Srivilliputtur, District Viruddhanagar, Tamil Nadu to the Family Court at Aurangabad, Maharashtra. The Aurangabad Bench of Bombay High Court entertained the transfer application and while issuing notice, stayed the divorce proceedings pending before the subordinate Court of Madras High Court.

Learned counsel for the appellant argues that the Bombay High Court committed jurisdictional error by entertaining the transfer application as it does not possess the power to transfer a case pending before a subordinate Court of another High Court.

Section 25 of Civil Procedure Code clearly envisages that the power relating to the inter-State transfer and transfer of cases from one High Court to another High Court or its subordinate Courts is vested solely on this Court and not on the High Courts. Thus, in view of the statutory provisions, the High Court of Bombay does not have the jurisdiction to entertain a petition seeking transfer of divorce proceedings from a subordinate Court of Madras High Court.

For the aforesaid reasons, we allow this appeal and set aside the impugned order passed by the Bombay High Court. No costs.

.....J.
(N.V.RAMANA)

.....J.
(PRAFULLA C.PANT)

New Delhi,
Dated: 27th February, 2017.

ITEM NO.41

COURT NO.10

SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 2380/2016

(Arising out of impugned final judgment and order dated 09/09/2015
in MCA No. 132/2015 passed by the High Court Of Bombay At
Aurangabad)

P. AYYANAR POTHU

Petitioner(s)

VERSUS

SUPRIYA AYYANAR POTHU

Respondent(s)

(with interim relief and office report)

Date : 27/02/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA

HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Petitioner(s) Mr. C.Paramasivam, adv.
Mr. Y.Arunagiri, Adv.
Mr. P. Ramesh,Adv.For Respondent(s) Mr. Shankar Chillarge, Adv.
Mr. Prateek Dhir, Adv.
M/s. Lawyer S Knit & Co,Adv.UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

(Shashi Sareen)

AR-cum-PS

(Signed order is placed on the file)

(S.S.R.Krishna)

Assistant Registrar