

SUPREME COURT OF INDIA

Vaishali Shridhar Jagtap

Vs.

Shridhar Vishwanath Jagtap

C.A.No.6159-6160 of 2016

(Kurian Joseph and R.F.Nariman,JJ.,)

08.07.2016

JUDGMNET

Kurian Joseph,J.,

SLP.(Civil)No.15558-15559 of 2014

1. Leave granted.

2. The appellant is the wife of the respondent. She is aggrieved since the High Court of Bombay declined to transfer the case, filed in Mumbai by the respondent for divorce, to Barshi where the appellant resides-parental home. The Review Petition was also dismissed. The High Court has taken the view that the appellant does not have to travel on all days for defending the case, and on the days of her travel, she will be paid a sum of rupees one thousand five hundred.

3. According to the appellant, her mother is aged and it is difficult for her mother to accompany the appellant for her travel to Mumbai. It is also stated that there are three criminal cases - one for maintenance, the second under the Prevention of Domestic Violence Act, 2005 and the third under Section 498A of The Indian Penal Code, 1860 and other related provisions, pending at Barshi, and one on the civil side for restitution.

4. The learned Counsel appearing for the respondent has vehemently opposed the prayer for transfer. It was submitted that the appellant's mother is only 60 years old and that she has two brothers. It is also pointed out that majority of the witnesses are from Mumbai and it would be difficult for them to travel to Barshi, and, in any case, the attempt is to harass the respondent-husband.

5. Admittedly, the distance between Mumbai and Barshi is around 400 kilometres. Four cases between the parties are pending at Barshi. Apparently, the comparative hardship is more to the appellant-wife. This aspect of the matter, unfortunately, the High Court has missed to take note of.

6. In view of the above, the impugned orders are set aside and the M. J. Petition No. 2287 of 2013 filed by the respondent-husband in Family Court Bandra, Bombay will stand transferred to the court of competent jurisdiction at Barshi.

7. The appeals are allowed as above. There shall be no orders as to costs.