

Bhartiben Ravibhai Rav vs Ravibhai Govindbhai Rav on 5 May, 2017

Equivalent citations: AIRONLINE 2017 SC 98

Author: R. Banumathi

Bench: Kurian Joseph, R. Banumathi

|NON REPORTABLE |

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

TRANSFER PETITION (C) NO. 350 OF 2017

BHARTIBEN RAVIBHAI RAV
...Petitioner

Versus

RAVIBHAI GOVINDBHAI RAV

...Respondent

O R D E R

R. BANUMATHI, J.

This transfer petition filed under Section 25 of Code of Civil Procedure for transfer of H.M.P. No.1668 of 2015 titled as 'Ravibhai Gobindbhai Rav versus Bhartiben Ravibhai Rav' pending before the Family Court Judge, Ahmedabad at Gujarat to the Court of Competent Jurisdiction at Dungarpur, Rajasthan.

2. The marriage between the petitioner and the respondent was solemnized on 19.02.2006 and the couple was blessed with two sons namely Meshvasinh and Aeshvasinh who are aged eight years and seven years respectively. The relationship between the couple was strained and it is alleged that in September, 2015 the petitioner-wife was thrown out of her matrimonial house. The respondent-husband filed divorce petition being H.M.P. No.1668 of 2015 before the Family Court, Ahmedabad under Section 13(1) of the Hindu Marriage Act, 1955 of which the petitioner-wife seeks transfer.

3. The transfer petition is strongly objected to by the respondent- husband on the ground that he is employed in Ahmedabad and that he is taking care of his two sons, apart from his aged parents. The petitioner- wife, on the other hand, contends that the distance between Ahmedabad and her place Dungarpur, Rajasthan is about 200 kms. and that she finds it difficult to travel to Ahmedabad to contest the divorce petition. That apart, the petitioner-wife has also raised difficulty in pursuing the Divorce Petition in Ahmedabad because of the language problem, as she is not well-acquainted in Gujarati.

4. Apart from divorce petition, there are other proceedings pending between the parties which have been filed by the petitioner-wife at Dungarpur, Rajasthan viz; (i) FIR under Section 498-A and 406 IPC and under Section 4 of The Dowry Prohibition Act; (ii) Petition under Section 125 Cr.P.C. before the Family Court, Dungarpur, Rajasthan and (iii) petition under Sections 12 and 23 of Protection of Women from Domestic Violence Act, 2005 pending before the Chief Judicial Magistrate, Dungarpur, Rajasthan. It is stated that respondent-husband is already appearing in Dungarpur Court, Rajasthan in connection with the aforesaid cases instituted by the petitioner-wife and that it may not be difficult for respondent-husband to pursue the divorce petition in Dungarpur Court, Rajasthan. Considering the facts and circumstances of the case, we feel that the petition could be transferred to Dungarpur, Rajasthan.

5. This petition is allowed. We make it clear that we have not expressed any opinion on the merits of the matter.

6. The Family Court Judge, Ahmedabad, Gujarat is directed to transmit records pertaining to HMP No.1668/2015 to District Judge, Dungarpur, Rajasthan, who shall transmit the case to Family Court, Dungarpur, Rajasthan (if there is a Family Court) or forward the same to the Court of competent jurisdiction.

7. On the case being transferred, to Dungarpur, Rajasthan, if need be sufficient security be provided to either of the parties, on an application made before the Court.

.....J. [KURLAN JOSEPH]J. [R. BANUMATHI] New Delhi;

May 05, 2017.