

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

MISCELLANEOUS CIVIL APPLICATION NO.184 OF 2014

Sou.Mayuri Sachin Kadam .. Applicant

Vs.

Shri Sachin Bandu Kadam .. Respondent

Mr.Harshad Shingnapurkar i/b Mr.Amit B. Borkar for the applicant

Mrs.Shubhangi S. Nikam for the respondent

**CORAM : K.K.TATED, J.
DATED : 06/10/2015**

PC:

- 1 Heard the learned counsel for the parties.
- 2 This application is filed by wife under section 24 of the Civil Procedure Code, 1908 for transfer of Marriage Petition No.A-33 of 2014 filed by respondent husband in the Family Court at Bandra Mumbai under section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights to the Family Court at Kolhapur.
- 3 Advocate for the applicant submits that the applicant has 3 ½ years old child. He further submits that the distance between Bandra, Mumbai to Kolhapur is more than 420 kms. one way. He further submits that at present, applicant does not have any source of income. She has to depend upon her parents. He further submits that it is very

difficult for the applicant to attend Family Court at Bandra, Mumbai on each and every date along with her minor child. He submits that for attending the petition at Bandra court applicant has to travel overnight. He further submits that applicant does not have any place to stay at Mumbai. Hence, in the interest of Justice, this Hon'ble Court be pleased to transfer the matter from Family Court, Bandra to Civil Judge, Senior Division, Kolhapur. He submits that if application is not allowed, irreparable loss and injury will be caused to the applicant.

4 On the other hand, the learned counsel for the respondent husband vehemently opposed the present application. She submits that the respondent husband is ready and willing to start family life with the applicant. She submits that for that purpose only, the respondent husband has filed the petition under section 9 of the Hindu Marriage Act, 1955 i.e. for restitution of conjugal right. She submits that if the matter is transferred from Mumbai to Kolhapur, it will be very difficult for respondent to attend the matter on each and every date. She submits that at present, respondent is in service at Mumbai. She submits that it is very difficult for the respondent to take leave on each and every date. Hence, in the interest of Justice, this Hon'ble Court be pleased to dismiss the present application filed by applicant wife.

5 I have heard both the sides at length. It is to be noted that the applicant wife is staying in Kolhapur with her parents. She is a household wife. She does not have any source of income. Apart from that she has to maintain her minor child aged 3 ½ years. The distance between Kolhapur to Mumbai is more than 420 kms. one way which is an overnight journey.

6 Considering these facts, I am of the opinion that applicant has made out a case for allowing the present Miscellaneous Civil Application. Hence, following order is passed:

- A) Miscellaneous Civil Application is allowed.
- B) Office of the Family Court, Bandra is directed to transfer the Marriage Petition No.A-33/2014 filed by Sachin Bandu Kadam under section 9 of the Hindu Marriage Act for restitution of conjugal rights to the Family Court at Kolhapur.
- C) Hearing of petition filed by respondent under section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal right is expedited.
- D) This court expects the Court at Kolhapur to dispose of the said petition as early as possible but in any case within 6 months from the receipt of copy of this order.
- E) Miscellaneous Civil Application is disposed of accordingly.
- F) Parties to act on authenticated copy of the order.

(K.K.TATED, J.)

CERTIFICATE

Certified to be true and correct copy of the original signed order.