

**FARAD CONTINUATION SHEET  
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.  
CIVIL APPELLATE JURISDICTION.**

**MISC. CIVIL APPLICATION NO. 44 OF 2014**

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| Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders | Court's or Judge's orders |
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Mr. S. S. Redekar for the applicant.  
None for the respondent.

**CORAM : K. K. TATED, J.  
DATED : 15/10/2015.**

**P.C.:**

. Heard learned Counsel for the applicant. None for the respondent.

2 This application is preferred by wife under Section 24 of Civil Procedure Code, 1908 for transfer of H.M. Petition No. 39 of 2013 filed respondent husband under Section 9 of Hindu Marriage Act, 1955 for restitution of conjugal rights before the Civil Judge, Senior Division, Pusaad Yavatmal to the Civil Judge, Senior Division at Vasai, Dist. Thane.

3 The learned Counsel for the applicant submits that applicant issued private notice by registered post A.D. to the respondent on 09.04.2014. He submits that the packet containing the private notice returned unserved with postal remark "refused to accept". He submits that applicant filed

affidavit of service dated 06.05.2014 to that effect.

4 Office note shows that notice issued to the respondent returned with the bailiff remark "Door closed, gone out of town."

5 Considering the fact that private notice issued by the applicant by RPAD refused by the respondent husband that, to be treated as good service. Hence, matter is taken on board for hearing.

6 The learned Counsel for the applicant submits that the applicant is household wife. She does not have any source of income. At present applicant is residing at Vasai, Dist. Thane along with her parents. He submits that the distance between Vasai to Pusad is more than 450 kms. He submits that there is no direct train facilities available to Pusad. He submits that applicant has to depend upon her parent for financial assistance. He submits that it is very difficult for the applicant to travel alone from Vasai to Pusad. He submits that in the interest of justice, this Hon'ble Court be pleased to transfer the Hindu Marriage Petition filed by the respondent husband under Section 9 of Hindu Marriage Act, 1955 from Pusad to Vasai, District Thane for hearing on its own merits.

7 In the present proceeding, at present applicant is residing at Vasai, Dist. Thane. She is household

wife. She does not have any source of income. She has to depend for financial assistance on her parents. Nobody in the family of applicant to escort her to Pusad district Yavatmal for attending the marriage petition filed by respondent husband on each and every date. There is no direct train available from Vasai to Pusad. The distance between Pusad to Vasai is more than 500 kms.

8 Considering all these facts and submissions made by the learned Counsel for the applicant, I am satisfied that applicant has made out case for allowing this Miscellaneous Civil Application.

9 Hence, following order.

a) Office of Civil Judge, Senior Division at Pusad District Yavatmal is directed to transfer the papers and proceeding of H. M. Petition No. 39 of 2013 filed by Gajanaj Narayan Paikrao under Section 9 of Hindu Marriage Act, 1955 for conjugal rights to the office of Civil Judge, Senior Division, at Vasai, Dist. Thane for hearing and final disposal on its own merits.

b) Miscellaneous Civil Application is allowed accordingly.

**(K.K.TATED, J.)**