

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

MISCELLANEOUS CIVIL APPLICATION NO.95 OF 2014

Darshana Rajesh Shelar		Applicant
<u>Vs.</u>		
Rajesh Dattaram Shelar		Respondent

Mr. M.P. Rege, Advocate for the Applicant.

Mr. R. Dubey h/for Mr. Rutuja Ambekar, Advocate for the Respondent.

Coram : Smt. R.P. SondurBaldota, J.

Date : 11th February, 2015.

P.C.

1 This application is filed by the wife under Section 24 Code of Civil Procedure for transfer of Marriage Petition No.86 of 2013, pending in the Court of Civil Judge, Senior Division, Panvel to the Court of Civil Judge, Senior Division, Vasai.

2 The applicant-wife states in the application that she is presently residing with her widowed mother and brother and that she is completely dependent on her brother for financial and emotional support. The brother being a government servant, cannot afford to accompany the applicant from Vasai to Panvel on each date of hearing of the petition.

3 Mr. Rege, the learned advocate for the applicant however states that the applicant is no more residing at Vasai. She has since been residing at Mokhada, Tal. Javhar, Dist. Thane, as her brother has been transferred to that place. This would mean that the applicant is no longer ordinary resident of Vasai. Therefore, the application for transfer cannot be maintained. Mr. Rege, however, argues that the applicant has her relatives at Vasai and also a house where she can stay along with her mother, whenever she has to attend to the court proceedings. Therefore the application can be allowed and the proceedings transferred to Vasai.

4 The applicant is no longer an ordinary resident of Vasai. She has shifted with her brother to another place which is at a substantial distance from Vasai. The service of the brother being transferable, she is most likely to be shifting from the present place of residence also. In such circumstances, the proceedings, which have been filed in a court having jurisdiction cannot be transferred to the court which otherwise does not have jurisdiction. Hence, the application is dismissed.

(Smt. R.P. SondurBaldota, J.)