

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

MISC. CIVIL APPLICATION NO.239 OF 2015

Sau. Bhakti Jaywant Kulkarni .. Applicant

vs.

Shri Jaywant Murlidhar Kulkarni .. Respondent

Mr. Kuldeep U. Nikam i/b Mr.Abhay Prakash Dhadiwal for the applicant

CORAM : K.K.TATED, J.
DATED : 17/10/2015

PC:

1 Heard the learned counsel for the applicant.

2 This application is preferred by wife under Section 24 of Code of Civil Procedure, 1908 for transfer of divorce petition filed by the respondent husband bearing Marriage Petition No.496 of 2014 under Section 13(1)(i-a) and (i-b) of the Hindu Marriage Act, 1955 in the Court of Civil Judge, Senior Division, Thane to the Civil Judge, Senior Division, Kopergaon for hearing and final disposal on its own merits.

3 The learned counsel for the applicant submits that applicant wife is residing at Kopergaon Dist.Ahmednagar. He submits that applicant is household wife. She does not have any source of income. At present applicant is residing with her parents. He submits that applicant has 9 years old daughter. He submits that the distance between Thane and Kopergaon is more than 300 kms. one way. Hence, it will be very

difficult for the applicant to attend each and every date in Divorce Petition filed by respondent husband at Thane.

4 The learned counsel for the applicant submits that applicant preferred Marriage Petition No.210 of 2014 under section 9 of the Hindu Marriage Act for restitution of conjugal right before the Civil Judge, Senior Division, Kopergaon on 30.12.2014. He submits that the petition is pending for hearing and final disposal on its own merits. He further submits that applicant also preferred Criminal Misc.Application No.556 of 2014 before the Judicial Magistrate, First Class, Kopergaon under section 125 of the Criminal Procedure Code for maintenance. He submits that the respondent husband is attending these two matters filed by applicant wife at Kopergaon.

5 The learned counsel for the applicant submits that in the interest of Justice, this Hon'ble Court be pleased to transfer Divorce Petition filed by respondent husband to Kopergaon for hearing and final disposal on its own merits.

6 I have heard the learned counsel for the applicant at length. Applicant has to maintain 9 years old daughter. The distance between Thane and Kopergaon is more than 300 kms. one way. Applicant does not have any source of income. She has to depend for financial assistance on her parents. Apart from that, Marriage Petition filed by applicant under section 9 of the Hindu Marriage Act as well as criminal application under section 125 of the Criminal Procedure Code is pending at Kopergaon in which the respondent husband is attending to defend those matters.

7 The Apex Court in the matter of **Pratibha Khema Vs. Sanjay Kumar Khemka, 2005(2) LJ Soft SC 19** held that the convenience of a lady to be given priority at the time of deciding the Application for transfer of divorce petition from one place to another place. Similar view has been taken by our High Court in the matter of **Saw.Megha vs. Madan, 2013 (4) BCR 211.**

8 Considering the submissions made by the learned counsel for the applicant, the averments made in application and as per the law declared by the Apex Court and our High Court, I am of the opinion that applicant has made out a case for allowing this application. Hence, following order is passed:

- a) Office of the Civil Judge, Senior Division, Thane at Thane is directed to transfer Hindu Marriage Petition No.496 of 2014 filed by Jaywant Murlidhar Kulkarni under section 13(1)(i-a) and (i-b) of the Hindu Marriage Act, 1955 to the Civil Judge, Senior Division Kopargaon Dist Ahmednagar for hearing and final disposal on its own merits.
- b) Misc. Civil Application is disposed of accordingly.

(K.K.TATED, J.)