

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

MISC. CIVIL APPLICATION NO.217/2015

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. M. A. Adenwala for the Applicant
Mrs. Vandana Jadhav for the Respondent.

CORAM : K. K. TATED, J.
DATE : OCTOBER 8, 2015

P.C.:

1. Heard. Mrs. Vandana Jadhav, Advocate submits that she received instructions to appear on behalf of the Respondent. She undertakes to file vakalatnama within a week. Undertaking is accepted.

2. This Application is filed by wife under section 24 of the Code of Civil Procedure, 1908 for transfer of marriage petition No.A-39/2014 filed by the Respondent husband u/s.9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights in Family Court at Thane to Family Court at Bandra, Mumbai.

3. The learned counsel for the Applicant submits that being lady, it is very difficult for the

Applicant to travel from Kurla to Thane court to attend the matter on each and every date. He further submits that at present the Applicant is residing with her parents. The learned counsel for the Applicant relied on paragraph 8 of the Civil Application in support of this contention, which reads thus:

“8. The Petitioner states in order to attend the petition filed at Thane the Petitioner is required to go to Thane whereas the petition filed by her being heard at Mumbai. The Petitioner faces under mentioned difficulties for attending the hearing at Thane namely ;

a. That the Respondent calls all his relatives to the area near the court to see the Petitioner and thus cause embarrassment to the Petitioner.

b. That the Respondent has threatened the Petitioner that he will see that loss is caused to her for not bringing down as per his demands therefore the Petitioner is apprehensive that the Respondent may commit or get someone to commit some criminal act.

c. It is just necessary that the entire dispute which is matrimonial in nature be declared by one court who is aware of all the proceedings.

d. It is convenient and proper for the Petitioner to attend family court at Mumbai rather than travel all the way to Thane.”

4. The learned counsel for the Applicant submits that the Applicant also filed an Application for maintenance in Family Court at Bandra, which is pending for hearing and final disposal on merits. Hence, this Hon'ble Court be pleased to transfer the marriage petition filed by the Respondent husband at Thane to the Family Court at Bandra. He further submits that if Application is not allowed, irreparable loss will be caused to the Applicant.

5. On the other hand, the learned counsel for the Respondent husband vehemently opposed the Application. She submits that the Applicant is residing at Kurla (W). She submits that the distance between Kurla and Thane is not more than 20 km. She submits that all transport facilities by train and road from Kurla are available. Hence, there is no question of allowing the Misc. Civil Application.

6. Heard the learned counsel for the parties at length. It is to be noted that the Respondent husband filed marriage petition under section 9 of the Hindu Marriage Act, 1955 in the Family Court Thane on 10/04/2014 whereas the Applicant wife filed Application under Hindu Marriage Act, 1955

on 23/06/2015 i.e. after receipt of summons in the marriage petition. Apart from that, the distance between Kurla (West) where the Applicant is residing and Thane is not more than 20 km. All types of transport facilities are available to the Applicant to reach Thane safely. Considering these facts, I am of the opinion that the Applicant failed to make out a case for allowing the Civil Application. Hence, same stands rejected.

JUDGE

CERTIFICATE

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