

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

MISC. CIVIL APPLICATION NO. 146 OF 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. R. C. Barge for the applicant.
None for the respondent.

**CORAM : K. K. TATED, J.
DATED : 12/10/2015.**

PC.:

. Heard learned Counsel for the applicant.

2 The learned Counsel for the applicant submits that as per the directions of this court, he served the respondent by private notice. To that effect, applicant filed affidavit of service dated 11.09.2015. In spite of the service, no one appeared on behalf of respondent husband, when the matter called out.

3 This application filed by wife under section 24 of Code of Civil Procedure, 1908 for transfer of Hindu Marriage Petition No. 171 of 2015 filed by the respondent husband under Section 9 of Hindu Marriage Act for restitution of conjugal rights before the Civil Judge, Senior Division, Thane to Civil Judge, Senior Division Satara.

4 The learned Counsel for the applicant submits that applicant is household wife. She has no source of income. At present applicant is residing with her parents at Kotwali (Panchgani) Taluka Javali Dist.

Satara. He submits that the distance between Satara and Thane is more than 300 kms one way. He submits that it is very difficult for her to attend the petition filed by the respondent husband in the Court at Thane. He submits that she has to travel from Satara to Thane by overnight journey. He submits that applicant has two minor children, one is three years old and another is new born baby. He submits that it is very difficult for applicant to travel from Village Kotawli to Thane to attend each and every date of the divorce petition filed by the respondent husband. He submits that hence, in the interest of justice, this Hon'ble Court be pleased to transfer the petition filed by the respondent husband at Thane to the Court at Satara. He submits that if application is not allowed, irreparable loss will be caused to the applicant.

5 I heard learned Counsel for the applicant at length. Though the respondent is duly served, no one appeared on behalf of him when the matter called out.

6 This application is filed by the wife under Section 24 of Code of Civil Procedure, 1908 for transfer of Marriage Petition from Civil Judge, Senior Division, Thane to the Civil Judge, Senior Division, Satara. Applicant has two minor children, aged 3 years and another is new born. Applicant is household wife. She has to depend for financial

assistant on her parents. The distance between the Kotwali to Thane is more than 300 kms one way. One has to travel overnight for reaching at Thane.

7 The Apex Court in the matter of ***Pratibha Khema v/s. Sanjay Kumar Khema, reported in 2005(2) L. J. Soft SC 19*** and in the matter of ***Soma Choudhaury V/s. Gourab Choudhaury, reported in 2004 (13) SCC 462*** held that convenience of the lady is required to be considered at the time of deciding the application under Section 24 of Code of Civil Procedure, 1908.

8 Considering the submissions made by the learned Counsel for the applicant, averments made in Civil Application and the law laid down by the Apex Court, I am satisfied that applicant has made out case for allowing Civil Application.

9 Hence, following order;

i) Misc. Civil Application is allowed in terms of prayer clause (a) which reads thus:

“a) That this Hon'ble Court be pleased to transfer the proceeding filed by the Respondent which is pending before the Learned Civil Judge Senior Division, Thane being Hindu Marriage Petition No. 171 of 2015 to Learned Civil Judge, Senior Division, Satara.”

10 Misc. Civil Application stands disposed of accordingly.

(K.K.TATED, J.)