

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC.CIVIL APPLICATION NO.260 OF 2014**

Mrs.Minakshee Anil Deshmukh ..Applicant

Vs

Mr. Anil Raghunath Deshmukh .. Respondent

Mr.P.A.Pol i/b Rajesh M.Parvesh, Advocate for Applicant.

CORAM : R.G.KETKAR,J.
DATE : 23/03/2015

PC:

1. Heard Mr.P.A.Pol, learned counsel for the Applicant.
2. By this Application under section 24 of the Code of Civil Procedure, 1908, the applicant-wife has prayed for transfer of Marriage Petition No. A/125 of 2014 filed by the respondent-husband in Family Court, Thane to Family Court at Bandra, Mumbai.
3. By order dated 21.11.2015, notice for final disposal of the application was issued returnable after four weeks. Office remark shows that the respondent is duly served. However, none appears on his behalf. No reply is filed opposing the application.
4. The applicant has instituted Marriage Petition No. A/754 of 2014 before Family Court at Bandra, Mumbai. In that petition, the Family Court issued notice to the respondent. During the pendency of her petition for divorce, she received notice dated 16.4.2014 on 17.5.2014 with regards to Marriage Petition No. A/125 of 2014 filed by the respondent in Family Court, Thane for

divorce under section 13(1) (ia) of the Hindu Marriage Act, 1955. Mr. Pol invited my attention to grounds set out in paragraphs 7 and 8 of the application and submitted that the applicant is staying with her parents at Parel and is working at Andheri. She has filed petition for divorce in Family Court, Bandra, Mumbai. The respondent has not mentioned his residential address. He has also not disclosed his place of work. He submitted that it will be inconvenient for the applicant to attend the proceedings in Thane Court. In support of his submissions, he relied upon following judgments :

- a) Anisha Sanjay Hinduja Vs Sanjay Shrichand Hinduja, 2003 (3) *Mh.L.J.*139;
- b) Sumita Singh Vs. Kumar Sanjay and Anr, *AIR 2002 SC 396*;
- c) Anita Balkrishna Barge Vs. Balkrishna Sopan Barge, 2011 (1) *Mh.L.J.* 518;
- d) Chaya Balaji Birajdar Vs. Balaji Ishwarrao Birajdar, 2011 (2) *Mh.L.J.* 44;
- e) Sunita Baliram Pande Vs. Baliram Haribhau Pande, 2012 (2) *Mh.L.J.* 143;
- f) Vijaya Sachin Anurkar (Gurav) Vs. Sachin Vasantrao Anurkar (Gurav), 2012 (5) *Mh.L.J.* 721;
- g) Sonal Prafull Wani Vs. Prafull Sadashiv Wani, 2012 (5) *Mh.L.J.* 797; and
- h) Shreya Prashant Agale Vs. Prashant Prakash Agale, 2012(5) *Mh.L.J.* 943.

5. As noted earlier, despite service the respondent has not entered appearance. He has also not filed reply opposing the application. In view of uncontroverted assertions in paragraphs 7 and 8 of the application as also in view of the decisions, referred

to above, I find that the applicant has made out a case for transferring the proceedings from Family Court, Thane to Family Court at Bandra, Mumbai. Hence, Misc. Civil Application is allowed in terms of prayer clause (a) with no order as to costs.

6. Proceedings of H.MP. No.A/125 of 2014 instituted by the respondent in Family Court, Thane shall stand transferred to the Family Court at Bandra, Mumbai. After transfer of Petition No.A/125 of 2014 filed by the respondent, the same shall be clubbed with H.M.Petition No. A/754 of 2014 filed by the applicant. Since the respondent has not entered appearance after transfer of the proceedings, the Family Court, Bandra shall issue notice to the respondent and thereafter proceed with the Petitions in accordance with law. All contentions of the parties on merits are expressly kept open.

7. All the parties including Family Court, Thane shall act on the authenticated copy of this order. Order accordingly.

(R.G.KETKAR, J.)