

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO.148 OF 2014**

Nalini Narssimhan Applicant

Vs.

K. Narssimhan & Anr. Respondent

Ms. Devika Deshmukh i/by M/s ANB Legal, Advocate for the Applicant.

Mr. Hrishikesh Chavan, Advocate for Respondent no.1

Mr. Prakash Mahadik, Advocate for Respondent no.2.

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

Date : 10th March, 2015.

P.C.

1 This application filed under Section 24 Code of Civil
Procedure by the wife is for transfer of Marriage Petition No.88 of
2014, pending in the Family Court at Thane to the Family Court at
Bandra, Mumbai. The application is opposed by the respondent- no.1
husband. Respondent no.2 is the co-respondent in the Marriage
Petition.

2 The marriage between the parties was solemnised on 10th
February, 1995. After the marriage, both resided at Mumbai. There
are two children born from the wedlock. A daughter, who is today

aged about 18 years and the son, who is presently aged about 12 ½ years. The daughter is in the care and custody of respondent no.1 and the son is under the care and custody of the applicant.

3 The application is filed solely on the ground that the petition filed by the respondent can be conveniently heard alongwith the petition for divorce filed by the applicant. It is her claim that the two petitions pertain to similar facts and are between the same parties and that the evidence that would be led by the parties in the two petitions would be similar. If the petitions are tagged together, it would save the expenses for the applicant as also the time consumed in attending to two proceedings.

4 The applicant has filed petition for divorce on 5th August, 2009 being M.J. Petition No.A-2297 of 2009 in the Family Court at Bandra seeking divorce on the ground of cruelty and desertion. The respondent filed his written statement on 10th March, 2010. About five years thereafter, i.e. in the month of February, 2015, the applicant filed her affidavit of examination-in-chief in the petition. Till date the matter is yet to proceed for cross-examination. Ms. Deshmukh, the learned advocate for the applicant submits that final hearing of the petition is delayed on account of several interim applications taken out by the respondent. According to her, substantial amount of time was consumed in hearing of those applications and consequently the petition did not make any progress towards final hearing.

5 As against this, the respondent submits that soon after receipt of the summons in the petition, he had filed his written statement. Thereafter the applicant has delayed final disposal of the matter on one ground and the other. He also points out that the allegations made in the petition filed by the applicant are entirely different from the allegations made by him in his petition for divorce. Respondent no.1 has made allegations that the applicant is living in adultery with respondent no.2. Therefore, there can be no commonality in the evidence to be produced in the two petitions.

6 Mr. Chavan, the learned advocate for respondent no.1 submits that for more than a year, the applicant has been taking adjournments before the Family Court on the pretext of pendency of the present application. He alleges that the applicant is not serious in contesting her own petition. He also alleges that the present application is nothing but another attempt on the part of the applicant in delaying the matrimonial proceedings.

7 It is obvious from the two proceedings that the allegations made therein are completely different. Consequently, the evidence required therefor would also be different. In the circumstances, there is really speaking no need for transfer of the petition from one court to another court. Hence, the application is dismissed.

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