

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

**MISC. CIVIL APPLICATION NO.190 OF 2013
IN
M.J. PETITION NO. A-643 OF 2012**

Mrs. Pinki @ Deepika Mahavir Shah		Applicant
Vs.		
Mr. Mahavir Ashok Shah		Respondent

Ms. Rupali Shinde, Advocate for the applicant.

Mr. Pradip Naik h/for Mr. Surendra Yadav, Advocate for the Respondent.

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

Date : 14th January, 2015.

P.C.

1 This application under Section 24 of Code of Civil Procedure is for transfer of Marriage Petition No. A-643 of 2012 from Family Court, Bandra to the Court of J.M.F.C., at Vasai. The petition sought to be transferred is by the respondent for restitution of conjugal rights. The applicant has filed petition for divorce being Petition No.18 of 2012 in the Court at Vasai. Admittedly, the trial in the divorce petition has commenced and the applicant is under cross-examination by the respondent. The petition for restitution though filed earlier i.e. in the year 2010, it was dismissed for default and has been restored in the year 2012. Therefore, it will have to be treated as the subsequent

proceeding. Mr. Shinde, the learned advocate for the applicant submits that the respondent got the petition restored only after the applicant filed the petition for divorce.

2 Considering the nature of the two petitions and the fact that the petition filed by the applicant has already made substantial progress, it would be convenient and in the interest of justice that the proceeding filed in the Family Court is transferred to the Court at Vasai, where the petition of the applicant is pending. The Miscellaneous Civil Application is allowed in terms of prayer clause (a).

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