

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

MISC.CIVIL APPLICATION NO.179 OF 2014

Sou.Jyoti Ashlesh Maskar .. Applicant

Vs.

Shri Ashlesh Pandurang Maskar .. Respondent

Mr.Prashant S. Bhavake for the applicant

None for the respondent

CORAM : K.K.TATED, J.
DATED : 21/09/2015

PC:

- 1 Heard the learned counsel for the applicant.
- 2 Though the respondents are duly served, no one appeared on behalf of them when the matter was called out.
- 3 This application is preferred by wife under section 24 of the Code of Civil Procedure, 1908 for transfer of Divorce Petition A No.1740 of 2014 pending on the file of Learned Family Court No.7, Mumbai at Bandra, Mumbai filed by respondent husband under section 13(1)(i-a) of the Hindu Marriage Act, 1955 to the Family Court, Kolhapur.
- 4 The learned counsel for the applicant submits that applicant is

household wife. She does not have any source of income. At present, she is residing with her parents at Kolhapur. He further submits that the applicant wife also filed Misc.Criminal Application Case No.82 of 2014 under section 12 of the Protection of Womens from Domestic Violence Act, 2005 on 20.11.2014 before the learned Judicial Magistrate, Family Court, Kolhapur for protection and other reliefs. He submits that the respondent husband is attending the said matter at Kolhapur.

5 The learned counsel for the applicant further submits that initially the applicant wife filed Petition A No.6 of 2014 on 13.1.2014 in the Family Court at Kolhapur for restitution of conjugal rights. He submits that, that petition was allowed by the Family Court at Kolhapur on 14.8.2014. He submits that in the meanwhile, respondent husband filed Divorce Petition in the Family Court at Bandra, Mumbai. He submits that the distance between Mumbai to Kolhapur is more than 250 kms. He submits that it is very difficult for the applicant to travel from Kolhapur to Mumbai. He further submits that it is very difficult for the applicant to arrange finance for attending the matter on each and every date at Mumbai. Hence, in the interest of justice, this Hon'ble Court be pleased to transfer the Divorce Petition filed by respondent husband at Mumbai to the Family Court at Kolhapur.

6 The learned counsel for the applicant submits that against the judgment and decree passed by Family Court at Kolhapur in a Petition filed by applicant under section 9 of the Hindu Marriage Act, this court appointed Mediator for settlement. He submits that the matter was not settled between the parties before the Mediator.

7 I have heard the learned counsel for the applicant at length. In the present proceeding, Petition filed by wife under section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal right was allowed by the Family Court at Kolhapur by decree dated 14.8.2014. Even the Misc.Criminal Application Case No.82 of 2014 filed by applicant under section 12 of the Protection of Womens from Domestic Violence Act, 2005 is pending before the learned Judicial Magistrate, First Class, Kolhapur for hearing on its own merits. In that proceeding, the respondent husband is attending the dates at Kolhapur. Apart from that, considering the distance between Kolhapur and Mumbai and that the applicant is household wife residing with her parents at Kolhapur, I am of the opinion that applicant has made out a case for allowing this Misc. Civil Application. Hence, following order is passed:

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

“(b) By appropriate order or direction, this Hon'ble Court be pleased to transfer Petition-A No.1740 of 2014 pending on the file of the Learned Family Court No.7, Mumbai at Bandra, Mumbai to the Learned Judge, Family Court, Kolhapur.”

B) Miscellaneous Civil Application is disposed of accordingly.

(K.K.TATED, J.)

CERTIFICATE

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