

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

MISC. CIVIL APPLICATION NO.225/2014

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. Prajat M. Arjunwadkar for the Applicant
Mr. Subir Kumar for the Respondent.

CORAM : K. K. TATED, J.
DATE : SEPTEMBER 11, 2015

P.C.:

1. Heard. This Application is made by wife under section 24 of the Code of Civil Procedure, 1908 for transfer of divorce petition bearing No.349/2014 filed by the Respondent husband before the Family Court at Pune to the Family Court at Kolhapur.

2. The learned counsel for the Applicant submits that at present, the Applicant is residing at Kolhapur along with her parents. She is a housewife. She has no source of income. He further submits that even the parents of the Applicant are retired. He submits that the Applicant has 6 years old son. It is very difficult for the Applicant to travel from Kolhapur to Pune to attend each and every date in divorce petition filed

by the Respondent husband. He submits that the distance between Kolhapur and Pune is about 240 km. He submits that in the interest of justice, this Hon'ble Court be pleased to transfer the divorce petition filed by the husband at Pune to Kolhapur for hearing on merits.

3. On the other hand, the learned counsel for the Respondent husband vehemently opposed the Civil Application. Respondent filed Affidavit-in-Reply dated 02/05/2015. The learned counsel for the husband submits that the Respondent is ready and willing to bear the travelling expenses of Applicant from Kolhapur to Pune as and when she attends the court. He submits that the Respondent is serving at Pune and earning very meager salary of Rs.8,000/-. He submits that the Applicant has suppressed the fact that the Applicant filed proceeding under the Protection of Women from Domestic Violence Act, 2005 at Kolhapur. He further submits that the reason given by the Applicant in the Application for transfer of divorce petition from Pune to Kolhapur are not sufficient to entertain the Civil Application. In support of this contention, the learned counsel for the Respondent relies on the judgment of the Madras High Court in the matter of *G. Lavnya Vs. Bindu @ R. Sakhtivel*

2005(2) CTS 456. He submits that the Madras High Court rejected the Application filed by wife under section 24 of the Code of Civil Procedure, 1908 for transfer of divorce petition from Sub-Court, Tiruppathur to the file of Principal Family Court at Chennai for disposal. In that case also, the distance was 220 km. On the basis of this submission, the learned counsel for the Respondent submits that there is no substance in the Civil Application. Same be dismissed with costs.

4. Heard both sides. In the present proceedings the Applicant is residing at Kolhapur with her retired parents. She has no source of income. She has to maintain her 6 years old son. The distance between Kolhapur and Pune one side is more than 240 km.

5. The Apex Court, further in the matter of ***Pratibha Khema Vs. Sanjay Kumar Khemka*** **2005(2) LJ Soft SC 19** held that the convenience of a lady has to be kept in mind at the time of deciding the Application under section 24 of the Code of Civil Procedure, 1908. Similar view is taken by this Court in the matter of ***Megha Madan Nayak Vs. Madan Nayak*** **2013(4) BCR 211**.

6. In view of the above mentioned facts, I am satisfied that the Applicant has made out a case for allowing the Civil Application.

7. Hence, following order is passed:

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

(a) This Hon'ble Court may be pleased to allow the present Misc. Application and be further pleased to direct to transfer the proceedings of petition No.349 of 2014 pending before the learned Judge, Family Court at Pune to the court of learned Judge, Family Court at Kolhapur.

b. Misc. Civil Application stands disposed off accordingly.

JUDGE

CERTIFICATE

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