

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

MISCELLANEOUS CIVIL APPLICATION NO.5 OF 2015

Ms.Kamini Manoj Mohole .. Applicant

Vs.

Mr.Manoj Motilal Mohole .. Respondent

Mr.Vyas Hitesh Purushottam for the applicant

None for the respondent

**CORAM : K.K.TATED, J.
DATED : 28/08/2015**

PC:

- 1 Heard the learned counsel for the applicant.
- 2 None for the respondent though duly served.
- 3 This application is preferred by wife under section 24 of the Code of Civil Procedure, 1908 for transfer of Divorce Petition bearing P.A.No.141 of 2014 filed by respondent husband in the Family Court at Bandra, Mumbai to the Family Court at Pune.
- 4 The learned counsel for the applicant submits that wife filed petition for restitution of conjugal rights under section 9 of the Hindu Marriage Act, 1955 in the Family Court at Pune on 6.5.2013. In that

petition, respondent filed his written statement. He further submits that the applicant preferred application for interim maintenance in the petition at Pune. That interim petition was allowed by the Trial Court. He submits that though the Family Court at Pune directed respondent husband to pay maintenance charges @ Rs.10000 per month from 1.1.2014, there is arrears of more than 1,60,000/-. He submits that with malafide intention respondent husband filed petition for divorce bearing no.PA.No.141 of 2014 in the Family Court at Bandra.

5 The learned counsel for the applicant submits that applicant is residing at Pune. He submits that she is a household wife. It is difficult for applicant to attend each and every date at Bandra Court. He submits that in any case, the respondent is attending the Family Court at Pune to defend the petition filed by wife under section 9 of the said Act. He submits that in the interest of justice this Hon'ble Court be pleased to transfer the petition filed by respondent husband in the Family Court at Bandra to the Family Court at Pune for hearing and final disposal on its own merits.

6 I have heard the learned counsel for the applicant. There is no dispute that in the present proceeding initially applicant wife filed petition for restitution of conjugal rights under section 9 of the said Act in Pune Court on 6.5.2013. In that petition, respondent husband filed his written statement. That matter is pending for hearing on its own merits.

7 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 to be given priority at the time of deciding the Application for transfer of divorce petition from one place to another place. Similar view has been taken by the Apex Court in the matter of **Deepti Bhandari Vs. Nitin Bhandari & Anr. 2012 (1) SCC 725.**

8 Considering the submissions made by the learned counsel for the Applicant and the law laid down by the Apex Court in the aforesaid matters, I am of the opinion that the Applicant has made out a case for allowing the Misc.Civil Application.

9 Hence, following order is passed:

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

“(a) that the petition for divorce bearing P.A.No.141/2014 filed by the Respondent in the Hon'ble Family Court, Bandra, Mumbai, may kindly be transferred to the Hon'ble Family Court, Pune.”

b) Application stands disposed of accordingly.

(K.K.TATED, J.)