

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

MISC. CIVIL APPLICATION NO.249/2014

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. Sham V. Walve for the Applicant
Mr. Piyush Pande i/b. MAG Legal for the Respondent Nos.1 and 2.

CORAM : K. K. TATED, J.
DATE : SEPTEMBER 22, 2015

P.C.:

1. Heard. The learned counsel for the Applicant seeks liberty to delete the name of Respondent No.2 Shashikala Madhav Kamat. Amendment to be carried out during the course of the day.

2. This Application is made by wife under section 24 of the Code of Civil Procedure, 1908 for transfer of Hindu Marriage Petition No.1139/2014 filed by Respondent husband in Family Court at Pune to the Family Court at Nasik Road, at Nasik.

3. The learned counsel for the Applicant submits that initially, the Applicant filed Misc. Application No.200/2015 under Protection of Women from Domestic Violence Act, 2005. He submits that thereafter the Respondent husband

filed Divorce Petition under section 13(1)(ia) of the Hindu Marriage Act 1955 on 07/10/2014 before Family Court at Pune. The learned counsel for the Applicant submits that the Applicant is a housewife. She does not have any source of income. He further submits that the distance between Pune and Nasik is more than 250 km one way. He submits that it is very difficult for the Applicant to attend each and every date in divorce petition filed by the Respondent. He submits that at present the Applicant is residing at Nasik with her parents who are senior citizen. Therefore, there is nobody to accompany her to attend that matter at Pune.

4. The learned counsel for the Applicant, in support of her submission relies on judgment of the Apex Court in the matter of ***T. Gayatri Devi Vs. Tallepaneni Sreekanth* 2013(6) Bom. C.R.119** and of this court in the matter of ***Anita Balkrishna Barge Vs. Balkrishna Sopan Barge* 2011(1) Mh.L.J.518.**

5. On the basis of this submission and the law laid down by the Apex Court as well as this court, the learned counsel for the Applicant submits that in the interest of justice, this Hon'ble Court be pleased to allow the Application and transfer the HMP No.1139/2014 to Family Court at Nasik. She

submits that if Application is not allowed, irreparable loss will be caused to the Applicant. She submits that the Applicant has good chance of success in the divorce petition filed by the Respondent husband.

6. On the other hand, the learned counsel for the Respondent husband vehemently opposed the Civil Application. He submits that the Respondent is in service. Therefore, it is very difficult for him to attend the Family Court at Nasik, if matter is transferred from Pune. 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.

7. Heard the learned counsel for the parties at length. In the present proceedings, initially the Applicant filed Misc. Application No.200/2014 at Nasik under Protection of Women from Domestic Violence Act, 2005 for various reliefs. Thereafter, the Respondent husband filed Divorce Petition under section 13(1)(ia) of the Hindu Marriage Act 1955 on 07/10/2014 before Family Court at Pune. The Applicant is a house-wife. She does not have any source of income. Presently the Applicant is residing with her parents who are senior citizen. The distance between Pune and Nasik is more than

250 km one way. There is no direct train facility available from Pune to Nasik.

8. Considering these facts and the law laid down by the Apex Court that convenience of a lady has to be considered at the time of deciding the Application under section 24 of the Code of Civil Procedure, 1908, I am satisfied that the Applicant has made out a case for allowing the Civil Application.

9. Hence, following order is passed:

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

“(b) That this Hon'ble Court may kindly direct transfer of Hindu Marriage Petition No.1139/2014 pending in the Family Court Pune at Pune to the Family Court Nasik at Nasik Road.”

b. Misc. Civil Application stands disposed off accordingly.

c. No order as to costs.

JUDGE

CERTIFICATE

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