

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****MISC.CIVIL APPLICATION NO. 121 OF 2016****ALONGWITH****CIVIL APPLICATION NO. 131 OF 2016****Mrs.Puja Manoj Desale****..... Applicant****VERSUS****Manoj Somnath Desale****..... Respondent**

Mr.Satish Adsul for the Applicant.

None for the Respondent.

CORAM : R.D. DHANUKA, J.**DATE : 22nd NOVEMBER, 2016****P.C.**

Learned counsel appearing for the applicant tenders affidavit of service and submits that the respondent has been served. None appeared for the respondent when the matter was called out. No affidavit in reply is filed by the respondent. Affidavit of service is taken on record.

2. By this miscellaneous civil application filed under section 24 of the Code of Civil Procedure, 1908, the applicant seeks transfer of the Petition No.A/168/2015 filed by the respondent for seeking divorce against the applicant before the learned Civil Judge, Senior Division, Kalyan to the Family Court at Bandra.

3. The applicant was married to respondent on 11th May,2011 at Dombivli. Out of the said wedlock, there are two issues born on 25th April, 2012 and 6th October,2014 respectively. The applicant has been staying with her father who is selling vadapav for his survival and for the survival of the applicant and her two

children.

4. The applicant has also filed a separate proceedings against the respondent inter alia praying for restitution of conjugal rights in the Family Court, Bandra which is pending. The respondent has been attending the said proceedings. The respondent is employed in the bank at Bhandup.

5. Learned counsel appearing for the applicant submits that the applicant is not employed and the applicant is not able to carry her two children for attending the proceedings at Kalyan. The father of the applicant is not able to accompany her in view of his small business of vadapav.

6. It is submitted that the respondent can attend the proceedings filed by him if transferred to Bandra.

7. For the reasons recorded aforesaid, in my view the applicant has thus made out a case for transfer of the proceedings filed by the respondent.

8. Supreme Court as well as this court in catena of decisions has consistently taken a view that while considering an application filed under section 24 of the Code of Civil Procedure, 1908, convenience of the wife has to be considered.

9. I, therefore, pass the following order :-

(a) Misc. Civil application No. 121 of 2016 is made absolute in terms of prayer clause (a). The learned Civil Judge, Senior Division, Kalyan is directed to transmit the papers and proceedings of Petition No.A/168/2015 filed by the

respondent to the Family Court at Bandra, Mumbai expeditiously.

(b) The parties as well as the two courts described in prayer clause (a) of the miscellaneous civil application to act on the authenticated copy of this order.

(c) The parties are directed to appear before the Family Court, Bandra, Mumbai on 19th January, 2017.

(e) There shall be no order as to costs.

10. In view of disposal of the miscellaneous civil application, civil application does not survive and is accordingly disposed of. No order as to costs.

(R.D.DHANUKA, J.)