

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

MISC.CIVIL APPLICATION NO. 275 OF 2017

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Smt. Priyanka Mahadev Kadakane	Applicant
V/S	
Shri Prakash Maruti Kalekar	Respondent

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Mr.Nagesh Chavan i/by Mr.Sandesh Godse for the Applicant.
Mr.Kishor Redekar for the Respondent.

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CORAM : A.A. SAYED J.
DATED : 17 NOVEMBER 2017

P.C.:

This Misc.Civil Application is filed under section 24 of the Code of Civil Procedure, 1908, by the Applicant-wife for transfer of Petition No.A2352 of 2016 filed by the Respondent-husband for divorce pending before the Family Court, Mumbai at Bandra to the Civil Judge, Senior Division, Gadhinglaj, District- Kolhapur.

2. The marriage between the Applicant and the Respondent was performed at Narsobachiwadi, Taluka- Shirol, District-Kolhapur, and the marriage was registered at Vgelvatti Panchayat, Taluka- Ajara, District- Kolhapur. The matrimonial home of the parties was in Mumbai. Due to marital discord, the Applicant-wife is presently residing at Gadhinglaj, Kolhapur, with her parents. The Respondent-husband has filed a Petition

being Petition No.A2352 of 2016 before the Family Court, Mumbai at Bandra for divorce. The Applicant-wife has filed D.V.Petition before the Civil Judge, Senior Division, Gadhinglaj and has also filed an Application for maintenance under section 125 of Criminal Procedure Code. The Respondent-husband is defending the proceedings there. The distance between Gadhinglaj and Mumbai is about 500 km. It is contended that she being a lady and since her financial condition is weak she is unable to travel from Gadhinglaj to Mumbai.

3. A Reply has been filed by the Respondent-husband, wherein it is pointed out that the marriage between him and the Applicant-wife was second marriage for both, after the first divorce. It is stated that it was revealed recently that the Applicant-wife's first divorce was for the reason that she had an extra marital affairs. The Applicant-wife has capacity to earn and prior to marriage and even after marriage, she was in employment and her financial position is very sound.

4. Having regard to the facts and circumstances of the case and particularly the Applicant-wife being a lady and considering distance of 500 kms between Gadhinglaj and Mumbai, in my view, a case is made out by the Applicant-wife to transfer Petition No.A2352 of 2016 filed by the

Respondent-husband at Family Court, Mumbai at Bandra to Civil Judge, Senior Division, Gadhinglaj, District: Kolhapur. Hence, the Application is allowed in terms of prayer clause (a), which reads as follows:

“a) This Hon'ble Court may be pleased to transfer the Petition bearing No.A2352 of 2016 pending before the Family Court Mumbai at Bandra to the Civil Judge, Senior Division, Gadhinglaj, District: Kolhapur.”

The Family Court, Mumbai at Bandra shall transmit the Petition No.A2352 of 2016 to Civil Judge, Senior Division, Gadhinglaj, District: Kolhapur, at the earliest.

5. Both learned Counsel for the parties state that the parties shall appear before the Civil Judge, Senior Division, Gadhinglaj, District-Kolhapur on 21 December 2017 at 11 a.m. alongwith a copy of this order. The statement is accepted.

6. Misc.Civil Application is disposed of accordingly.

All concerned to act on copy of this order duly authenticated by the Registry.

(A.A.SAYED, J.)