

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

MISC.CIVIL APPLICATION NO. 118 OF 2015

Pradnya Nisarg Shah-Kotecha Applicant

Versus

Nisarg Vikram Shah Respondent

Mr. Abhaykumar Apte for Applicant.
None for Respondent.

**CORAM : S.C.GUPTE, J.
DATE : 5 JANUARY 2017.**

P.C.

. Heard learned Counsel for the Applicant, who is the original Respondent to the Divorce Petition pending before the Family Court at Bandra, Mumbai. This Misc. Civil Application is for transfer of the pending Divorce Petition from the Family Court No.4, Bandra, Mumbai to the Family Court, Pune for trial and disposal. The Respondent is represented by an Advocate. However, none appears for the Respondent. On the last date, i.e. on 26 November 2015, also, when the matter was called out, the Respondent was absent.

2. The Divorce Petition before the Family Court at Bandra, Mumbai states in the jurisdiction clause that the parties last resided at the Petitioner's parents' house in Kandivali at Mumbai, which is the Petitioner's address set out in the cause title. The Petitioner and the Respondent got married in Pune on 5 July 2011 and admittedly after the marriage stayed in a rented flat at Shri Jawaharlal Khosa, S/No.127, F-8, Chaitraban Rresidency, Aundh, Pune. It is the Petitioner's case that the parties lived together for around two years, and thereafter the Respondent left the matrimonial home and refused to come back. It is further the case of the Petitioner that after the dispute between the parties were purportedly settled on 15 June 2014, on 17 June 2014 the Petitioner went to pick up the Respondent and thereupon both returned to Mumbai and stayed at the Kandivali address. On the Petitioner's own showing, he left Mumbai on very next day for UK for work and that the Respondent went back to her parent's house in Pune. This position is contested by the Respondent. It is the Respondent's case in the Misc. Civil Application that she never returned with the Petitioner for stay in Mumbai on any date or that she ever stayed at the Kandivali address.

3. The course of events narrated by the Petitioner in the Petition leading to the parties' stay at the Mumbai address seems to be prima facie unlikely. In any event, based on the alleged stay

on one day at Mumbai, the Petitioner cannot be allowed to invoke the jurisdiction of the Family Court at Mumbai for his Matrimonial Petition. The marriage was admittedly solemnized in Pune. The parties after the marriage always resided together in Pune and the Respondent at the time of presentation of the Petition admittedly resided in Pune. Even otherwise, the Respondent/Applicant is employed in Pune and having a small child to look after. She cannot be expected to keep coming to Mumbai every now and then to attend the hearing of the Petition.

4. On these facts, there is a clear case for transfer of the Matrimonial Petition to the Family Court Pune, which admittedly has jurisdiction in the matter.

5. Accordingly, the Misc. Civil Application is allowed in terms of prayer clause (a). No order as to costs.

(S.C.Gupte, J.)