

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

MISCELLANEOUS CIVIL APPLICATION NO.253 OF 2015

Sou. Jayshree Dipak Kale	...	Applicant
Versus		
Shri Dipak Ram Kale	...	Respondent
.....		
Mr. S.T. Bhosale for the Applicant.		
.....		

CORAM : S.C.GUPTE, J.

DATE : 8 MARCH 2017

P.C. :

. This miscellaneous civil application seeks transfer of a matrimonial petition, being Hindu Marriage Petition A No.1057 of 2014, filed by the Respondent for restitution of the conjugal rights, from the Family Court at Pune to the Civil Judge, Senior Division, Barshi, District Solapur.

2 The Applicant resides at Barshi and has filed a complaint under the Protection of Women from Domestic Violence Act against the Respondent, which is pending before the Court of JMFC at Barshi. Learned Counsel for the Applicant submits that the Respondent is evading service. The Respondent's address shown in the cause title of the miscellaneous civil application is the same as given by him in his own petition for restitution of conjugal rights, which is sought to be transferred, and yet the service is returned with the remark "not found". Learned Counsel for the Applicant also submits that the Respondent has remained absent on many occasions and has not been attending his own petition before the Family Court at

Pune diligently. Learned Counsel submits that roznama of the petition indicates that the petition was in fact dismissed for default because of non attendance on the part of the Respondent but since that order of dismissal was passed after the stay of the proceedings granted by this Court on 26 November 2005 (though received by the Family Court at Pune on 29 December 2016), the order has been set aside *suo moto* by the Family Court at Pune.

3 On these facts, the miscellaneous civil application is allowed in terms prayer clause -(a)

(S.C. GUPTE, J.)