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

MISCELLANEOUS CIVIL APPLICATION NO.21 OF 2017

Sheetal Suvil Gangurde	...Applicant
Versus	
Suvil Vilas Gangurde	...Respondent

Mr.Rahul D. Motkari, for the Applicant.

CORAM : REVATI MOHITE DERE, J.

DATE : 9th OCTOBER, 2017

P.C. :

1. Heard learned Counsel for the applicant.
2. By this application, the applicant seeks transfer of the matrimonial proceedings, being Petition No.A-54 of 2016 (Petition for Restitution of Conjugal Rights), filed in the Family Court No.3, Mumbai, at Bandra, Mumbai, to the Family Court at Nashik.
3. On 15th March, 2017, this Court (Coram:S.C.Gupte,J.) issued notice to the respondent, returnable on 12th April, 2017. Private service was

also permitted. It appears that despite private service, the respondent failed to appear. Thereafter, on 28th September, 2017, the aforesaid application was directed to be placed for hearing and final disposal and the Advocate for the applicant was again directed to serve a copy of the application alongwith a copy of the order by private service. Pursuant thereto, the Advocate for the applicant sent a private notice dated 29th September, 2017, by Speed Post A.D, in compliance of the order dated 28th September, 2017. Learned Counsel for the applicant has tendered an affidavit of service to that effect. The same is taken on record. Despite service, the respondent has not appeared and hence the application is taken up for hearing and final disposal.

4. Learned Counsel for the Applicant states that the applicant has been residing with her widowed mother at Nashik. He submitted that the applicant's brothers are young and that one is doing odd jobs whereas, the other is studying. He further submitted that there are three proceedings pending between the parties at Nashik i.e. (i) a criminal case under the Protection of Women from the Domestic Violence Act, pending before the learned Judicial Magistrate First Class, Nashik; (ii) proceedings under

Section 125 of the Code of Criminal Procedure seeking maintenance, pending in the Family Court at Nashik and (iii) a Divorce Petition also pending before the Family Court, at Nashik. According the learned counsel, as a counter blast to the said proceedings filed by the applicant, the respondent filed a petition, being Petition No.A-54 of 2016 in the Family Court, Bandra, Mumbai seeking Restitution of Conjugal Rights. He further submitted that no prejudice whatsoever will be caused to the respondent, if the said case pending in the Family Court, Bandra, is transferred to the Family Court, at Nashik, whereas, great inconvenience and tremendous hardship will be caused to the applicant, if the aforesaid petition is not transferred from the Family Court, Bandra, Mumbai, to the Family Court at Nashik.

5. It is a matter of record, that the applicant has filed 3 proceedings as against the respondent, one before the learned Judicial Magistrate First Class, Nashik and two in the Family Court at Nashik in 2015-2016. The respondent is required to attend the said three proceedings at Nashik and hence, if the petition pending in the Family Court, at Bandra, Mumbai, is transferred to the Family Court at Nashik,

no prejudice will be caused to the respondent, whereas, the applicant will be put to tremendous hardship and inconvenience, if she is required to travel to Mumbai. The applicant is admittedly staying with her widowed mother and 2 brothers in Nashik. The applicant has no source of income and is dependent on her family.

6. Considering the aforesaid, the Application is allowed and the matrimonial proceedings being Petition No.A-54 of 2016 (Petition for Restitution of Conjugal Rights), filed in the Family Court No.3, Mumbai, at Bandra, Mumbai is transferred to the Family Court at Nashik.

7. Application is accordingly disposed of.

8. All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)