

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO.336/2017

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
---	---------------------------

Mr. V. V. Parshurami for the applicant
Mr. Gangadhar J. Sabnis for respondent No.1.

CORAM : K. K. TATED, J.
DATE : DECEMBER 15, 2017

P.C.:

1. Heard. This Application is filed by wife under section 24 of the Code of Civil Procedure, 1908 for transfer of M.P.No.165/2016 filed by the Respondent husband before Civil Judge, Senior Division Sindhudurg at Oras to the Family Court, Bandra, Mumbai.

2. The learned counsel for the Applicant submits that the Applicant is a housewife. She is earning approximate Rs.6000/- pm. He submits that as the Applicant is residing in Mumbai, to attend each and every date in the said marriage petition she has to travel more than 550 km by spending sum of Rs.1400/- by train (two way journey) by bus Rs.900/- (two way journey) plus additional amount of minimum Rs.400/- night for

lodging and boarding. He submits that it is very difficult for her to attend the dates of the said petition. Hence, the Applicant has made the present Application. In support of this contention, he relies on paragraph 19 and 21 of the Application which read thus:

“19. The Applicant states that as the Applicant is currently staying at Deonar with her monther and the marriage petition has been filed by the Respondent husband at Sindhudurg, Oras, the Applicant has to travel a distance of more than 550 km and the travel time required for the same is approximately 12 to 14 hrs. The Applicant states that the expenses that are incurred for a two way journey along with the expenses incurred for stay are approximately : By train Rs.1400/- (two way journey) by bus Rs.900/- (two way journey) plus additional amount of minimum Rs.400/- night for lodging and boarding.

20. The Applicant states that the Applicant has to be accompanied by some relative as she is not educated and it will be difficult for her to understand the proceedings at the Sindhudurg Court.”

3. The learned counsel for the Applicant submits that in the interest of justice, this Hon'ble Court be pleased to allow the present Application in terms of prayer clause (a) by transferring the marriage petition No.165/2016 to the Family Court Bandra, Mumbai.

4. The learned counsel for the Applicant submits that he does not want to press prayer clauses (c) and (d) of the present Application at present. To that effect he has given in writing. Same is taken on record and marked "X" for identification.

5. Liberty granted to the Applicant to take out appropriate proceedings for the same cause of action.

6. The learned counsel for the Respondent vehemently opposed the Civil Application. He submits that the entire cause of action arose in District Sindhudurg, Oras. Hence, he has filed the petition for divorce before Civil Judge, Senior Division Sindhudurg at Oras. He submits that if this matter is transferred to the Family Court at Bandra, Mumbai, it would be very difficult for the Respondent to bring all witness at Mumbai. Hence, there is no substance in the Application. Same may be dismissed with costs.

7. It is to be noted that the Applicant is a housewife. To attend the M.P.No.165/2016 at Oras she has to travel more than 550 km. Not only that

she has to spend Rs.1400/- for the said journey. Over and above, the Applicant does not have any source of income. She has to spend so much amount on litigation. In any case, the Respondent being husband can attend his litigation at Mumbai.

8. Considering these facts, I am satisfied that the Applicant has made out a case for allowing the Misc. Civil Application.

9. Hence, following order is passed.

a. The Misc. Civil Application is allowed in terms of prayer clause (a) which reads thus:.....

(a) This Hon'ble Court be pleased to transfer the proceedings bearing Marriage Petition No.165/2016 pending before the learned Civil Judge, Senior Division Sindhudurg Oras to the Family Court, Mumbai at Bandra.

b. No order as to costs.

c. Liberty granted to the Applicant to take out appropriate proceedings for remaining prayer clauses (c) and (d) which will be decided on merits before the appropriate court.

d. Misc. Civil Application stands disposed of accordingly.

JUDGE