

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

MISCELLANEOUS CIVIL APPLICATION NO.341 OF 2017

Nishigandha Prasanna Kamble .. Applicant

vs.

Prasanna Manohar Kamble & Ors. .. Respondent

Mr. M.S.Adenwala for the applicant

**CORAM : K. K. TATED, J.
DATE : DECEMBER 13, 2017**

P.C.:

1. Heard.
2. By this application under section 24 of the Code of Civil Procedure, 1908 applicant wife is seeking transfer of Hindu Marriage Petition No.1116 of 2016 filed by respondent husband under section 13(1) (ia)(ib) of the Hindu Marriage Act for divorce before Civil Judge, Senior Division Kalyan to Family Court at Bandra, Mumbai.
3. The learned counsel for the applicant submits that applicant is working as Assistant Branch Manager at Dadar since last 4 years i.e. prior to Marriage. He submits that it will be very difficult for her to take leave on each and every date to attend the matter at Kalyan Court. He further submits that the respondent is not appearing before Kalyan

Court on several occasions. Hence, matter is adjourned from time to time. He further submits that if matter is transferred from Kalyan Court to Family Court at Bandra, it will be more convenient for the applicant to attend the matter on each and every date to protect her interest. He further submits that same is not going to affect interest of the respondent husband also. In support of this contention, he relies on the judgment of the Apex Court in the matter of ***Sumita Singh vs. Kumar Sanjay and Another; (2001) 10 SCC 41***. He submits that in this authority, the Apex Court held that convenience of the wife be looked at the time of transferring the matter from one place to another place. He also relied on the judgment of our High Court in the matter of ***Savita w/o Vijay Mahajan vs. Vijay s/o Bajirao Mahajan, 2008(6) Mh.L.J.263***.

4. On the basis of these submissions and the two authorities, the learned counsel for the applicant submits that present application under section 24 of the Code of Civil Procedure, 1908 be allowed and transfer Divorce Petition filed by respondent husband at Kalyan Court to Family Court at Bandra, Mumbai.

5. I have heard the learned counsel for the applicant at length. It is to be noted that the applicant is working as Assistant Manager at Dadar Branch of Deccan Merchant Co-op. Bank since last more than 4 years. Cause title of present petition as well as Divorce Petition filed by respondent husband shows that applicant is staying at Diva (West) Dist.Thane. Respondent filed Divorce Petition before Civil Judge, Senior Division Kalyan. She has to travel from Diva Station where

applicant is residing to the Dadar where applicant is working. By local train it takes near about 40 minutes. In similar way the distance between Diva where the applicant is residing and Kalyan is less than that.

6. The authority cited by the applicant in the matter of ***Sumita Singh vs. Kumar Sanjay and Another*** (Supra) is not applicable in the facts of the present case. In that case, the wife filed application for transfer of proceeding from Ara, Bhojpur Bihar to Delhi. Apex court held that distance between Delhi to Ara was about 1100 kms. Therefore, wife's application was allowed in that case. In similar way, the authority cited by the applicant in the matter of ***Savita w/o Vijay Mahajan vs. Vijay s/o Bajirao Mahajan*** (Supra) is also not applicable in the facts and circumstances of the present case. In that matter, wife had filed petition for transfer of Petition under Hindu Marriage Act, 1955 filed by husband from Civil Judge, Senior Division, Jalgaon to court of Civil Judge, Senior Division, Nashik. The High Court at the time of allowing application filed by the wife considered the distance between those two cities in paragraph 9 of the judgment, that is not the case in the present proceedings.

7. In the case in hand, Kalyan Court is not more than 15 to 20 kms. away, where the applicant is residing. Considering these facts, I do not find any substance in the present application. Therefore, on the ground of distance, application is required to be dismissed. Hence, Misc. Civil Application stands rejected.

(K.K.TATED, J.)