

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

MISCELLANEOUS CIVIL APPLICATION st. NO.36509 OF 2017

Pallavi Kiran Kulal ... Applicant

Vs.

Kiran Pandurang Kulal ... Respondent

Mr.Satish S. Raut for the Applicant
Mr.S.S.Pilwalkar for Respondent

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: APRIL 12, 2018**

P.C. :

1. This application is filed by the applicant/wife under section 24 of the Civil Procedure Code for transfer of the marriage Petition No.134 of 2015, which was filed by the respondent/husband in the Court of Civil Judge Senior Division, Ratnagiri to the Court of Civil Judge Senior Division, Malshiras, where the applicant/wife has filed Marriage Petition No.23 of 2016 for restitution of conjugal rights under section 9 of the Hindu Marriage Act.
2. The learned Counsel for the applicant submits that this transfer is sought mainly on the ground of health of the applicant. The applicant is suffering from a very peculiar disease. She is

diagnosed with Autoimmune Hemolytic Anemia with ANA positive. She gets symptoms like fever, head-ache, abdominal pain, vomiting. Then, she has complaint of diminishing vision of the right eye. The medical papers i.e., the discharge summary of Sahyadri hospital, Karve road, Pune is produced.

3. The learned Counsel for the respondent submits that in the Court at Ratnagiri, the husband has filed the affidavit in chief and the learned Judge has passed the order of 'no cross'. He further submits that the applicant/wife has denied in her written statement that she has any such disease.

4. Heard submissions and perused the medical papers. Considering the nature of the disease; the applicant/wife has filed petition under section 9 of Hindu Marriage Act which is pending before the learned Civil Judge Senior Division, Maalshiras; so also the husband has filed a petition for divorce in the Court at Ratnagiri, there is a possibility of conflicting judgments which may lead to anomaly, it is necessary to transfer the petition from the the learned Civil Judge Senior Division, Ratnagiri to the Court of Civil Judge Senior Division, Malshiras. Accordingly, the following order is passed:

- i) The Miscellaneous Civil Application is allowed.
- ii) The Divorce Petition No.134 of 2015, which was filed by the respondent/husband in the Court of Civil Judge Senior Division, Ratnagiri to the Court of Civil Judge Senior Division, Malshiras, where the Petition No.23 of 2016 for restitution of conjugal rights, filed by the wife, under section 9 of the Hindu Marriage Act, is pending.
- iii) Both the petitions are to be clubbed together and to be taken together at the Court at Malshiras;
- iv) The applicant/wife has also filed criminal complaints under section 498 of the Indian Penal Code, which is pending before the learned Judicial Magistrate First Class, Malshiras. Therefore it is made clear that both the learned J.M.F.C., Malshiras as also the learned Civil Judge Senior Division, Malashiras, if possible, keep the matters on the same day so that it will be convenient for the respondent/husband to travel only once to attend to the two matters.

v) The Courts to expedite the petitions and conclude the same preferably on or before 31.10.2018.

5. Miscellaneous Civil Application is disposed of accordingly.

(MRIDULA BHATKAR, J.)