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

MISC. CIVIL APPLICATION NO.98 OF 2018

Kumudini Datta Mane	...	Applicant.
V/s.		
Datta Baburao Mane	...	Respondent

Mr. Nikhil Mallelwar i/by Sachin Pawar, for the applicant.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 13th AUGUST, 2018.

P.C. :

- 1] Heard learned counsel for the applicant.
- 2] Respondent, who appeared in person on the last occasion and has filed say resisting this application, is absent today.
- 3] This application is filed under Section 24 of the Code of Civil Procedure, for transfer of Marriage Petition No.79 of 2017, from the court of Civil Judge Senior Division, Gadhinglaj to Family Court, Pune.
- 4] The applicant is the wife of respondent and she is running the age of 54 years and has undergone the operation of spinal cord and on account of the same, she is unable to walk without the help of stick and therefore, she is finding it difficult to attend the Court at

Civil Judge Senior Division Gadhinglaj, where M.P. No.79 of 2007 is pending, filed by respondent.

5] Moreover, it is her case that she has filed Criminal Case No.212 of 2017 in the Court of J.M.F.C. Pune, against respondent, who has performed second marriage and in that case respondent is attending the Court at Pune and therefore it is her request that the Marriage Petition No.79 of 2017 be also transferred to the Family Court, Pune,

6] This application is resisted by the respondent contending *inter-alia* that he has also undergone the operation of Hernia and hence he is finding it difficult to travel to Pune. He has requested that considering the distance of 340 Kms between Gadhinglaj and Pune, it would not be proper to allow this application by transferring Marriage Petition No.79 of 2017. In the alternative, it is submitted that he has no objection if the said petition is transferred to the Court at Kolhapur.

7] I have given my thoughtful consideration to the submissions advanced by learned counsel for the applicant and to the written say filed on behalf of respondent.

8] Considering the age of the parties, the applicant is of 53 to 54 years age and respondent is running the age of 62 years, and also having regard to the fact that the applicant has undergone operation

of spinal cord; whereas respondent has undergone the operation of Hernia, wherever the matter may be transferred, either of the parties is bound to suffer inconvenience and hardship.

9] However, considering that the applicant, on account of her operation of spinal cord, cannot walk without the assistance of the stick and as already Criminal Case filed by her against respondent is pending in the Court at Pune and respondent has to attend the said case, so it would be appropriate that if both the cases, for convenience of the parties are kept at Pune, may be one or same date, so that the inconvenience which is likely to cause to both parties can be reduced.

10] Hence this application is allowed.

11] In order to enable the applicant to prosecute Marriage Petition No.79 of 2017 effectively, the said Marriage Petition is transferred from the Court at Civil Judge Senior Division, Gadhinglaj to the Family Court, at Pune.

12] Registry to inform the Court concerned.

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[DR.SHALINI PHANSALKAR-JOSHI, J.]