

from her husband. There is allegation that husband is having affair, and therefore, he was neglecting the wife and the son. The son is residing with the applicant-wife. The applicant claims that her husband is residing at Mumbai. Hence, in 2012 the Protection Officer filed Domestic Violence Case No. 25 of 2012 before the 53rd Metropolitan Magistrate Court, Mulund. In 2017, the applicant-wife filed maintenance proceeding, being E 106 of 2017 in the Family Court, at Bandra. Thereafter the husband filed divorce proceeding, being M.P. No. 251 of 2017 in the Court of Civil Judge, S.D. Ratnagiri. The husband has challenged the jurisdiction of Metropolitan Magistrate Court to conduct the domestic violence proceeding, but due to his attitude, the issue of jurisdiction has not been decided for 4 years. The applicant claims that her husband has not filed any say to the petition filed by her under S. 9 of the Hindu Marriage Act, being Petition A-(Stamp) No. 2195 of 2018 in the Family Court, Mumbai.

2. Learned advocate for the respondent opposed the

application, contending that the respondent is not residing in Mumbai. He is residing at Panchanadi, taluka Dapoli.

3. The learned advocate for the applicant has produced the copy of renewed licence issued by the Bombay Municipal Corporation (Licence Department), in the name of the respondent and his father. The shop is situated in Mumbai. He also relied on the statement of the respondent recorded in the cross-examination of the husband before the MM Court, wherein, he has admitted that BMC had issued licence for J.W. Metal Works. The licence is bearing his name, and workshop is situated in Mumbai.

4. The marriage took place in taluka Dapoli and they had cohabited at Panchanadi, taluka Dapoli, the court of Court of Civil Judge, S.D. Khed would have jurisdiction and the respondent has no reason to file divorce petition in the Court of Civil Judge, S.D. Ratnagiri. It is stated that the Court at Ratnagiri has transferred the matter to the Court at Khed. The evidence shows that the respondent is having business at

Mumbai. Besides, he is attending 3 matters filed by the wife in Mumbai. Wife is residing with her son in Mumbai. She has no source of income. Considering the facts, I pass following order.

ORDER

- (i) Marriage Petition No. 251 of 2017, filed by the respondent-husband for divorce, in the Court of Civil Judge, S.D. Ratnagiri, which is now transferred to Court of Civil Judge, S.D. Khed, is transferred to the Family Court, at Bandra.
- (ii) All records of above marriage petition shall be transmitted to the Family Court at Bandra, immediately.
- (iii) Both the parties are directed to appear before the Family Court at Bandra on 21st November, 2018.
- (iv) Miscellaneous civil application is disposed of in the above terms.

Sd/-
[A. M. DHAVALE, J.]

Vinayak Halemath