

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

MISCELLANEOUS CIVIL APPLICATION NO.210 OF 2018

Ganesh Ravindra Kharade	...Applicant
Versus	
Shilpa Ganesh Kharade	...Respondent

WITH

MISCELLANEOUS CIVIL APPLICATION NO.218 OF 2018

Shilpa Ganesh Kharade	...Applicant
Versus	
Ganesh Ravindra Kharade	...Respondent

.....

Mr. Sudhir S. Hardikar for the Applicant in MCA/210/2018 and for the Respondent in MCA/218/2018.

Mr. R.S. Alange i/b. Ms Rekha S. Pangare for the Applicant in MCA/218/2018 and for the Respondent in MCA/210/2018.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 20th DECEMBER, 2018.

P.C.:-

The Applicant in MCA No.210 of 2018 and the Applicant in MCA No.218 of 2018 are husband and wife respectively (hereinafter shall be referred to as Applicant-husband and Respondent-wife respectively). They were married on 7.2.2011. Marital discord between the parties has led to filing of the divorce petition and proceedings for restitution of conjugal rights proceedings.

2. The divorce petition being Petition A No.1268 of 2015 is filed by the Applicant-husband and the same is pending before the Family Court, Pune, whereas proceedings for restitution of conjugal right being Petition A No. 108 of 2018 filed by the Respondent-wife is pending before the Family Court, Solapur. By these applications filed under Section 24 of the CPC, the Applicant -husband has sought transfer of Petition A No.108 of 2018 from Family Court, Solapur to Family Court-Pune whereas the Respondent-wife has sought transfer of divorce proceedings being Petition A No.1268 of 2015 from Family Court, Pune to Family Court, Solapur.

3. Heard Mr. Sudhir S. Hardikar, the learned counsel for the Applicant-husband and Mr. R.S. Alange, the learned counsel for the Respondent -wife. Perused the records.

4. It is seen that the Applicant-husband has sought transfer of the proceedings being Petition A No.108 of 2018 on the ground that he is serving in military and is posted at border and that it is not possible for him to attend matters at different places. He has further stated that since both the proceedings arise from the matrimonial dispute, they have to be heard by one Court in order to avoid delay and conflicting judgments.

5. The Respondent-wife has sought transfer of divorce proceedings to Solapur on the ground that she is residing at Solapur and being a lady it is inconvenient for her to travel and attend the court proceedings at Pune, on each and every date. The Respondent-wife has also stated that since the dispute arises from matrimonial dispute it will be helpful to both the parties to lead common evidence.

6. There can be no doubt that generally the proceedings of such nature arising from matrimonial dispute should be tried and heard together so as to avoid conflicting decisions/decrees. However, in the present case it is seen that evidence in divorce Petition A No.1268 of 2015 is already concluded and the matter is fixed for final hearing whereas it is reported that proceedings for restitution of conjugal right Petition A No.108 of 2018 is still at the stage of appearance as the Applicant-husband in the said case is yet to be served with notice.

7. Considering the above facts and circumstances, in my considered view this is not a fit case to transfer either of the petitions. Hence, both the applications are dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)