

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVILAPPELLATE JURISDICTION**

MISCELLANEOUS CIVIL APPLICATION NO.305 OF 2017

Mrs.Lily Ralph D'mello
nee Lily Nicholas D'souza

... Applicant

Vs.

Mr.Ralpyh Tony D'mello

... Respondent

Mr.R.S. Gamare for the Applicant
Mr.P.P. Dubey for Respondent

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: APRIL 9, 2018**

P.C. :

1. The application is moved by the applicant/wife for transfer of the Marriage Petition No.A-480 of 2016 from the Family Court, Thane to the Family Court, Bandra, Mumbai. My predecessor by order dated 4.1.2018 relying on the judgement of the Supreme Court in the case of **Krishna Veni Nagam vs. Harish Nagam**¹ has directed the appellate Court to explore the possibility of conducting trial by way of video conferencing as there is a genuine difficulty on the part of the party to attend the proceedings. However, in the light of the subsequent judgment of a 3-Judge Bench of the

¹ (2017) 4 SCC 150

Supreme Court in the case of **Santhini vs. Vijay Venkatesh**² (Coram: Hon'ble Chief Justice and Shri Justice A.M. Khanwilkar and Dr. Justice D.Y. Chandrachud), wherein the Supreme Court has considered the degree of recording evidence by video conferencing and held that unless both the parties consent, the trial Court cannot proceed. In view of this, I consider the facts of the present case.

2. I heard the learned Counsel for both the parties. The husband has filed a petition for restitution of conjugal rights at Thane. The wife is residing at Kurla and she has sought transfer of the proceeding from Family Court, Thane to Family Court, Bandra. Considering the distance between Kurla and Bandra, and Thane and Bandra, normally this application cannot be considered and I would not have allowed this application. However, it is pointed out that the couple has a two year old baby girl and the applicant is taking care of the baby girl. The applicant is also a working woman.

3. In the case of **Santhini vs. Vijay Venkatesh** (supra), the Supreme Court by a majority held that in a transfer petition, video

² 2018 1 SCC

conferencing cannot be directed (Dr.Justice D.Y. Chandrachud dissenting.)

4. Under such circumstances, I am of the view that the convenience of the mother, who is the applicant, is to be considered and hence, I allow the application and transfer the Marriage Petition No.A-480 of 2016 from the Family Court, Thane to the Family Court, Bandra, Mumbai. The Family Court Thane is directed to transfer to R & P of the Petition No.A-480 of 2016 to the Family Court, Bandra, Mumbai on or before 25.4.2018, as the matter is fixed for counselling on 16.5.2018. The parties to appear before the learned Principal Judge, Family Court at Bandra so that they can be further directed for counselling before the Family Court Counsellor at Bandra.

5. Application is disposed of accordingly.

(MRIDULA BHATKAR, J.)