

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

MISCELLANEOUS CIVIL APPLICATION NO.37 OF 2017

Smt.Nilima Alok Gangurde ... Applicant

Vs.

Shri Alok Vilas Gangurde ... Respondent

Mr.Jitendra Gaikwad for the Applicant
Mr.S.D. Shinde i/b Ergo Juris for Respondent

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: APRIL 17, 2018**

P.C. :

1. This application is moved under section 24 of the Civil Procedure Code by the applicant/wife for transfer of the Marriage Petition No.122 of 2016 which is filed by the respondent / husband for divorce u/s 13(1A) of Hindu Marriage Act. The transfer is sought from the Court of the learned Civil Judge, Senior Division, Nasik to the Court of the learned Civil Judge, Senior Division, Baramati. The applicant wants the divorce petition to be transferred to Baramati as she is residing there.
2. The learned Counsel for the applicant submits that the husband has filed a Marriage Petition for divorce and is pending

before the learned Civil Judge, Senior Division, Nasik. He submits that the applicant has no acquaintances or relatives to stay at Nasik if she is required to stay there overnight. The learned Counsel further submits that the wife has filed a petition u/s 9 of the Hindu Marriage Act for Restitution of Conjugal Rights which is pending before the learned Civil Judge, Senior Division, Baramati. She has also filed a complaint u/s 498A of the Indian Penal Code and a separate case under the Protection of Women from Domestic Violence Act, 2005 which are pending before different Courts of learned Judicial Magistrate First Class, Baramati.

3. The learned Counsel for the husband submits that the husband has attended on all the Court dates and, therefore, the divorce petition pending in the Court at Nasik be transferred to the Court of Civil Judge, Senior Division, Baramati, where the petition for restitution of conjugal rights is pending. He submits that the respondent is already attending 4 cases at Baramati. He submits that the brother of the applicant is an advocate and there is pressure of him at the Baramati Bar.

4. Heard submissions. Considered the facts and circumstances of the case. The applicant/wife has filed 3 cases which are pending

in three different Courts of Judicial Magistrate First Class i.e., 4th Joint Civil Judge, Junior Division & Judicial Magistrate First Class, Baramati; 2nd Joint Civil Judge, Junior Division & Judicial Magistrate First Class, Baramati and 8th Joint Civil Judge, Junior Division & Judicial Magistrate First Class, Baramati. All these cases can be clubbed and transferred to only one Judicial Magistrate First Class at Baramati, so that the husband will have to attend on only one date for the 3 cases. With regard to the two petitions i.e., one u/s 9 of the Hindu Marriage Act for Restitution of Conjugal Rights and another for Divorce u/s 13(1)(i), there is a possibility of conflicting orders which will have anomaly. So, these two petitions i.e., u/s 9 and 13 are to be tried by one and the same Court. The Divorce Petition at Nasik i.e., Marriage Petition No.122 of 2016 is to be transferred to the Court of learned Civil Judge, Senior Division, Baramati, where the Petition u/s 9 filed by the wife is pending. Thus a common evidence can be recorded jointly in these two matters.

5. In these circumstances, I am of the view that it is a workable arrangement which will reduce the inconvenience to the applicant so also the respondent and hence, the following order is passed:

ORDER

i) The Marriage Petition No.122 of 2016 pending before the learned Civil Judge, Senior Division, Nasik is hereby transferred to the Court of learned Civil Judge, Senior Division, Baramati, where the Petition No.293 of 2017 filed u/s 9 filed by the wife is pending;

ii) All the three cases i.e., RCC No.586 of 2017 pending before the 4th Joint CJJD & JMFC, Baramati; Criminal Miscellaneous Application No.584 of 2016 pending before the 2nd Joint CJJD & JMFC, Baramati; Criminal Miscellaneous Application No.341 of 2016 pending before the 8th CJJD & JMFC, Baramati, are hereby transferred to one and the same Court i.e., the Court of learned Judicial Magistrate First Class, Baramati, which Court the learned Principal District Judge, Baramat to decide and assign all the three cases;

iii) If possible, the parties may seek one date for the criminal matters and for the petition under the Hindu Marriage Act before the learned CJSD, Baramati.

6. Miscellaneous Civil Application is disposed of accordingly.

(MRIDULA BHATKAR, J.)