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

**MISCELLANEOUS CIVIL APPLICATION (ST) NO.33843 OF
2017**

Mrs. Seema H Gupta	...	Applicant.
V/s.		
Hemant Rajkumar Gupta	...	Respondent

Mr. Omkar Warange, for applicant.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J

DATE : 19th JUNE, 2018.

P.C. :

- 1] Heard learned counsel for the applicant.
- 2] The office remark shows that the notice of this application is duly served on the respondent. However, none appeared for the respondent on the last date that is on 19.3.2018 and also on 11.4.2018. Today also none appears for the respondent. As already the proceedings before the Civil Court Senior Division, Kalyan, are stayed, this application is taken up for final hearing.
- 3] It is the applicant, who is wife having custody and responsibility of minor child of six years. She has filed Marriage Petition No.2931 of 2014, in the Family Court at Bandra for divorce. Thereafter respondent has filed Marriage Petition No.104 of 2017 in the court at Civil Judge Senior Division, Kalyan, for restitution of

conjugal rights under Section 9 of the Hindu marriage Act.

4] In view thereof, as the issues raised in both the proceedings are more or less same, as the petition for restitution of conjugal rights is counter to the petition for divorce and as applicant is residing at Mumbai, having responsibility of small child of six years, she is bound to face difficulties in attending the Court at Civil Judge Senior Division, Kalyan, it is desirable that the Proceedings pending before Civil Judge Senior Division, Kalyan are transferred to the Family Court at Bandra, so that both the proceedings can be decided together and it will avoid conflicting decision also.

5] Hence, application is allowed.

6] The Marriage Petition No.104 of 2017, pending in the Court of Civil Judge Senior Division, Kalyan is transferred to the Family Court at Bandra.

8 Application is disposed of.

[DR.SHALINI PHANSALKAR-JOSHI, J.]