

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

MISC. CIVIL APPLICATION NO. 342 OF 2017

Vasanti Babu Metkar ... Applicant.
V/s.
Babu Appa Metkar ... Respondent.

Mr. Sudhir V. Sadavarte, Advocate for the Applicant.
Mr. Kedar P. Lad, Advocate for the Respondent.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.
DATE : JUNE 14, 2018.

P.C. :

1 Heard learned counsel for the Applicant and the Respondent.

2 This application is filed by the applicant -wife under section 24 of the C.P.C. for transferring the H.M. Petition No. 219 of 2016 filed by respondent-husband and pending before the Court of Civil Judge, Senior Division, Kolhapur, to the Family Court, Kolhapur, wherein the proceedings bearing H.M. Petition No. A-116 of 2016 filed by the applicant -wife are pending. It is submitted on behalf of the applicant that as the Petition filed by the husband is for divorce; whereas the petition filed by applicant-wife is for restitution of conjugal rights, it is desirable that both the proceedings are conducted together before the Family Court only.

3 The submission of the learned counsel for the respondent - husband is that he has filed H.M. Petition No. 219 of 2016 earlier than the petition filed by the present Applicant-wife. Learned counsel submits that the Respondent is residing at Kagal Taluka and as the marriage was solemnized at Kagal, Dist. Kolhapur, he has availed the jurisdiction of the court of Civil Judge, Senior Division, Kolhapur. Instead of filing the petition in the same court, the Applicant - wife has filed her petition for restitution of conjugal rights in the Family Court, Kolhapur and, therefore, there is no necessity of transferring his petition, specially when both the courts are situated in the same campus and, hence, there is no question of applicant suffering any hardship.

4 However, as the Applicant-wife, who is Respondent in H.M. Petition No. 219 of 2016 filed by the husband for divorce on the ground of cruelty, is residing at Kolhapur it follows that the Family Court at Kolhapur is also having jurisdiction to decide the said H.M. Petition No. 219 of 2016 filed by the husband.

5 Though it is true that no case of difficulty or inconvenience is made by the applicant-wife, as both the courts are situated in the same campus, but the fact remains that both the petitions pertain to the family dispute. Therefore, it is always desirable that they are decided by a special court, namely, the Family Court, established for this very purpose. Moreover, as both the proceedings are connected to one another, one being for divorce and other is for

restitution of conjugal rights, they are required to be tried together, as evidence, issues and questions involved therein would be more or less same.

6 Hence, H. M. Petition No. 219 of 2016 pending in the Court of Civil Judge, Senior Division, Kolhapur is transferred to the Family Court, Kolhapur, wherein the proceedings bearing H.M. Petition No. 1-116 of 2016 filed by the Applicant-wife are pending.

7 The Civil Application is allowed in the aforesaid terms and disposed of accordingly.

[DR.SHALINI PHANSALKAR-JOSHI, J.]

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