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

MISCELLANEOUS CIVIL APPLICATION NO.9 OF 2018

H & C Polymate and others ... Applicants.

V/s.

Mrs.Manisha Abhijit Jail ... Respondent

Mr. Ameya Tamhane i/by Seema Sarnaik and Ameya T

H & C., for applicant.

Mr. Nitin P. Deshpande, for respondent

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 11th JUNE, 2018.

P.C. :

1] Heard learned counsel for the applicant and respondent.

2] This application is moved by the husband for transfer of Special Civil Suit No.1313 of 2017, from the Court of Civil Judge Senior Division, Pune to Family Court, Pune. It is submitted that the applicant has filed P.A.No.603 of 2015 in the Family Court at Pune, seeking divorce on the ground of cruelty and adultery; whereas respondent has filed suit for accounts and dissolution of the partnership firm, which is standing in the name of her, her husband and her mother-in-law.

3] According to learned counsel for applicant, as the evidence will be the same in both the proceedings, it is desirable that

they should be tried by one Court. However, in my considered opinion the evidence in petition for divorce is going to be definitely different one, considering that it is sought on the ground of cruelty and adultery; whereas in suit for accounts for dissolution of partnership firm, nature of evidence to be adduced will be different and the parties to both the proceedings are also different. Since the mother-in-law of respondent is not party to the petition for divorce; whereas person with whom adultery is alleged is not party to the suit and hence it would not be proper to direct both the proceedings to be tried by one and the same Court.

4] In such situation, this transfer application cannot be allowed and therefore, stands dismissed.

[DR.SHALINI PHANSALKAR-JOSHI, J.]