

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

MISC. CIVIL APPLICATION NO. 317 OF 2018

Jitendra Digambar Khandagale

..... Applicant.

Vs.

Prajakta Jitendra Khandagale

..... Respondent.

.....
Sharad T. Bhosale I/b Harish Chandra Kamble for the Applicant.
.....

CORAM : K.K.TATED, J.
DATED : SEPTEMBER 17, 2019

P.C.

1 Heard Learned Counsel for the Applicant.

2. By this Misc. Civil Application under Section 24 of the Civil Procedure Code, the Applicant-husband is seeking transfer of the Hindu Marriage Petition No. 168/2017 filed by him under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights before the Civil Judge, Senior Division, Barshi to the Family Court at Solapur, where the Respondent-wife filed Hindu Marriage Petition No. A-101/2017 for divorce under Section 13(1)(ia) of the Hindu Marriage Act, 1955.

3. As the Applicant-husband wants to transfer his own petition to the Solapur for hearing along with petition filed by the Respondent-wife, it is not necessary to issue notice to the Respondent-wife.

4. The Learned Counsel for the Applicant submits that, the Applicant filed Hindu Marriage Petition No. 168/2017 under Section 9 of the Hindu Marriage Act, 1955 before the Civil Judge, Senior Division, Barshi and whereas the Respondent-wife filed divorce petition before the Family Court at Solapur. He submits that if both the petitions are heard together, that will be convenient for both the parties. Hence, he has filed present application.

5. Considering the submissions made by the Learned Counsel for the Applicant and the averments made in Misc. Civil Application, I am satisfied that the Applicant has made out a case for allowing this Misc. Civil Application. But at the same time, the Applicant is directed to service the copy of the present application as well as the order passed by this Court on the Respondent-wife either by RPAD and/or hand delivery and file affidavit of service to that effect within 30 days from today. Hence, the following order:

a. Misc. Civil Application is allowed in terms of prayer clause (a) which reads thus:

“a. This Honb'le Court be pleased to transfer the HMP No. 168 of 2017 pending in the file of Ld. IInd Civil Judge, Senior Division, Barshi, District Solapur to the file of Family Court, Solapur, District Solapur for further proceeding and hearing in the matter accordingly.”

b. Family Court at Solapur is directed to hear Hindu Marriage Petition No. 168/2017 filed by the Applicant under Section 9 of the Hindu Marriage Act, 1955

along with Hindu Marriage Petition No. A-101/2017 filed by the Respondent/wife for divorce under Section 13(1)(ia) of the Hindu Marriage Act, 1955.

c. The Applicant is directed to serve the copy of the present application along with annexures and the copy of the order on Respondent-wife for her information either by RPAD and/or hand delivery and file affidavit of service to that effect on or before 19/10/2019.

d. No order as to costs.

(K.K.TATED, J.)