

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

MISC.CIVIL APPLICATION (ST) NO.2510 OF 2018

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Ms.Vrushali Penkar I/b Ms.Preeti Walimbe for the applicant

**CORAM : K. K. TATED, J
DATE : JULY 5, 2019**

P.C.:

. Heard.

2 The learned counsel for the Applicant submits that Respondent is duly served. She submits that they filed an Affidavit of service dated 27.02.2019. In spite of service, no one appeared on behalf of Respondent when the matter was called out.

3 By this Misc. Civil Application under section 24 of the Code of Civil Procedure, 1908, Applicant wife is seeking transfer of Marriage Petition No.1193 of 2017 filed by Respondent for divorce under section 13(1) (1a) of the Hindu Marriage Act, before the Civil Judge, Senior Division, Kalyan to the Family Court at

Nashik for hearing and final disposal on its own merits.

4 The learned counsel for the Applicant submits that Applicant is household wife. She does not have any source of income. She submits that it is very difficult for the Applicant to travel from Nashik to Kalyan on each and every date along with her minor child of 7 years old. She further submits that Application filed by Applicant before the Family Court at Nashik under Section 125 of the Criminal Procedure Code is pending for hearing and final disposal on its own merits.

5 The learned counsel for the applicant that earlier Respondent filed Hindu Marriage Petition No.A-463 of 2012 for divorce under section 13(1)(1a) of the Hindu Marriage Act. She submits that petition was dismissed for default on 20.06.2017. She submits that thereafter again Petitioner filed present Marriage Petition No.1193 of 2017 at Kalyan on 11.09.2017. She submits that it is very difficult for the Applicant to travel from Nashik to Kalyan along with minor child. Not only that, it is very difficult for the Applicant to bear the expenses for traveling from Nashik to Kalyan. Therefore, in the interest of Justice, this Hon'ble Court be pleased to transfer the

petition filed by Respondent before the Kalyan Court to the court at Nashik.

6 Considering the submissions made by the learned counsel for the Applicant, the averments made in the Application and as Applicant has to travel along with the minor child from Nashik to Kalyan, I am satisfied that the Applicant has made out a case for allowing the present Misc. Civil Application. Hence, following order:

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

“(a) This Hon’ble Court be pleased to transfer the proceeding of marriage petition (M.P.) No.1193 of 2017 pending before the Ld.Civil Judge, Senior Division, Kalyan Dist. Thane, to Ld.Principal Judge, Family Court, Nashik, Dist. Nashik for further proceeding & hearing in the matter accordingly.”

B) Misc. Civil Application stands disposed of accordingly.

C) No order as to costs.

(K.K.TATED, J.)