

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC.CIVIL APPLICATION (ST) NO. 4515 OF 2019**

Sau. Sneha Ashok Patil @ Sneha
Madhukar Vyavahare

..... Applicant.

Vs.

Shri. Ashok Vasant Patil

..... Respondent

.....

Mr. Manoj B. Bagal i/b. Ajit M. Savagave for the applicant.
None for the respondent.

.....

**CORAM : K.K.TATED, J.
DATED : AUGUST 19, 2019**

P.C.

Heard Learned Counsel Mr.Manoj Bagal for the applicant.

2. Learned Counsel for the applicant submits that the respondent is duly served by private notice and he has already filed affidavit of service. His statement is accepted. In spite of service, no one appeared on behalf of respondent when the matter is called out.

3. By this Miscellaneous Civil Application under Section 24 of the Civil Procedure Code, applicant/wife is seeking transfer of Marriage Petition No. 859 of 2018, filed by respondent, under Section 13(1)(iv),

13(1)(v), 13(1)(i-a) of the Hindu Marriage Act, 1955 for divorce before Learned Civil Judge, Sr.Division, Kalyan to the Family Court at Solapur. The Learned Counsel for the applicant submits that the applicant also filed the petition No.263 of 2018 before the Family Court, Solapur under Section 125 of the Criminal Procedure Code, 1973 for maintenance purpose. He submits that said application is pending for hearing on its own merits.

4. Learned Counsel for the applicant submits that applicant is suffering from HIV. Hence, she went into depression. Apart from that, she has to maintain her two years child. The alleged facts stated by the applicant in paragraph No.5 of the Civil Application. Learned Counsel for the applicant further submits that the distance between Solapur and Kalyan is around 400 K.M. He submits that the applicant is housewife, therefore, she is unable to attend on each and every date at Kalyan Court. He submits that in the interest of justice, this Hon'ble Court may be pleased to transfer the Marriage Petition filed by the respondent for divorce at Kalyan to the Family Court at Solapur for hearing and final disposal on its own merits. He submits that if the application is not allowed, irreparable loss would be caused to the applicant.

5. I have heard the Learned Counsel for the applicant.

6. It is to be noted that in paragraph no.5 of the Civil Application, applicant stated that applicant is suffering from HIV and she went in depression. Considering this fact and as the applicant has to maintain her two years child, applicant has made out case for allowing this application. Hence, the following order :-

ORDER

(a) Marriage Petition No.859 of 2018 filed by the respondent/husband before the Civil Judge, Senior Division at Kalyan for divorce is transferred to the Family Court at Solapur for hearing and final disposal on its own merits alongwith petition No.263 of 2018 filed by the applicant under Section 125 of the Criminal Procedure Code, for maintenance.

(b) Miscellaneous Civil Application stands disposed of accordingly.

(c) No order as to costs.

(K.K.TATED, J.)