

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

MISC. CIVIL APPLICATION (ST.) NO.5705 OF 2019

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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Mr.Satyajeet Dighe i/b Mr.Sachin S. Padaye for the applicant

Ms.Anita Bhaktwani for the respondent

**CORAM : K. K. TATED, J
DATE : AUGUST 1, 2019**

P.C.:

. Heard.

2 By this Application u/s.24 of the Code of Civil Procedure, 1908 the Applicant wife is seeking transfer of Hindu Marriage Petition No.990/2018 filed by the Respondent husband u/s.9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights before the Civil Judge, Senior Division, Thane at Bhiwandi to Civil Judge, Senior Division, Nandurbar.

3 The learned counsel for the Applicant submits that, Applicant is staying at Nandurbar. He submits that Applicant is housewife. He does not have any source of income. He further submits that the distance between Thane, Bhiwandi and Nandurbar is more than 500 kms. He submits that travel from Nandurbar to Bhiwandi, she has to travel overnight. Therefore, it is very difficult for her to travel alone from Nandurbar to Thane for attending the Marriage Petition filed by the Respondent.

4 The learned counsel for the applicant submits that in the interest of Justice, this Hon'ble Court be pleased to transfer the matter filed by the Respondent for hearing and final disposal in the court of Civil Judge, Senior Division, at Nandurbar. He submits that if Application is not allowed, irreparable loss will be caused to the Applicant.

5 On the other hand, the learned counsel for the Respondent husband vehemently opposed the present Application. She submits that, Respondent is in service. She submits that it is very difficult for Respondent to travel from Thane to Nandurbar, if matter is transferred as per the convenience of the Applicant. She submits that Applicant failed to make out any

case for allowing the Application .Hence, same is required to be dismissed with costs.

6 Heard.

7 It is to be noted that admittedly, as on date, Applicant is housewife. She does not have any source of income. She is residing at Nandurbar. Distance between Nandurbar and Thane is more than 500 kms. Therefore, it is not possible for the wife to travel from Nandurbar to Thane.

8 It is to be noted that Apex Court in the matter of Sangeeta @ Shreya (2004) 13 SCC 407 and Vandana 2008 (11) SCC 768 held that convenience of wife is required to be seen at the time of transferring the matter from one court to another for hearing.

9 Considering the submissions made by the learned counsel for the Applicant, the averments made in the Misc. Civil Application and the law declared by the Apex Court in the matter .., I am satisfied that the Applicant has made out a case for allowing the present Misc. Civil Application. Hence, following order is passed:

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

"(a) The Hon'ble Court be pleased to

transfer the Hindu Marriage Petition No.990 of 2018 pending in the Court of Ld.Civil Judge, Senior Division, Thane to the Ld.Civil Judge, Senior Division, at Nandurbar."

B. Misc. Civil application stands disposed off accordingly.

C. No order as to costs.

(K.K.TATED, J.)