

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

**MISC.CIVIL APPLICATION NO.146/2019
WITH
MISC.CIVIL APPLICATION NO.147/2019**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
---	---------------------------

Advocate Mrs.Maya Majumdar for applicant in both matters.

Advocate Mr.Kishor Walanju, legal aid appointed Advocate in both matters.

**CORAM : K. K. TATED, J
DATE : AUGUST 9, 2019.**

P.C.:

Heard learned counsel for parties.

2 By Misc. Civil Application No.146/2019, applicant/wife is seeking transfer of Marriage Petition No.335/2018 filed by Respondent/husband u/s 13(1)(ia) of Hindu Marriage Act 1955 for Divorce in Family Court at Thane to Family Court at Amravati, for

hearing and final disposal.

3 Miscellaneous Civil Application No.147/2019 is filed by wife for transferring her D.V.Application No.321/2018 filed by her against Respondent/husband u/s 12 of Protection of Women from Domestic Violence Act , 2005, from the Court of Chief Judicial Magistrate, Thane to the Court of Chief Judicial Magistrate, Amravati for hearing and final disposal.

4 Learned counsel for applicant submits that earlier applicant was staying at Thane. Because of dispute between husband and wife, now she started staying with her father at Amravati. She submits that now it is difficult for her to attend each and every date at Thane. The distance between Thane and Amravati is more than 600 km. She has to travel over night. She submits that applicant is unemployed. She do not have any source of income. Therefore, financially it is difficult for

her to travel from Amravati to Thane, to attend each and every date. Therefore, she filed both the matters for transferring petition filed by Respondent no.1 and Domestic Violence Application filed by her from Thane to Amravati for hearing and final disposal on its own merits. She submits that if both the applications are not allowed irreparable loss would be caused. He submits that applicant has good chance of success in both matters.

5 On the other hand, learned counsel for Respondent vehemently opposed the matters. He submits that Application also filed by plaintiff u/s 498-A of Cr.PC against Respondent which is pending for hearingj and final disposal on its own merits. He submits that Respondent is attending said case on each and every date. Therefore, there is no question of transferring both matters from Thane to Amravati Court.

6 Learned Advocate for Respondent submits that in both the matters all witnesses are from Thane only. If matters are transferred from

Thane to Amravati then it will be difficult for applicant to take all witnesses from Thane to Amravati. Even financial condition of respondent is not good. There is no substance in present applications and same are required to be dismissed with costs.

7 I heard both the sides at length. It is to be noted that earlier applicant was staying at Thane. But because of dispute between applicant and respondent now she do not have any place to stay at Thane. Therefore, she started staying with her father at Amravati at the address given in cause title. The distance between Amravati and Thane is more than 600 km. One has to travel overnight. Apart from that, applicant is unemployed. She do not have any source of income.

8 Objections raised by learned Advocate for Respondent that applicant is appearing in 498-A proceeding at Thane Court, can not be considered in the present proceeding because

that matter is between State and accused. It is not necessary for applicant to attend each and every date in that matter.

9. Considering these facts, I am of the opinion that applicant has made out a case for allowing both the applications. But both the matters to be heard by same Court at Amravati. Hence, the following order:

a) Marriage Petition No.335/2018 filed by respondent/husband u/s 13(1)(ia) of Hindu Marriage Act for Divorce before Family Court at Thane and Domestic Violence Application No.321/2018 filed by applicant/wife u/s 12 of the 'Protection of Women from Domestic Violence Act', 2005 against Respondent before 3rd Joint Judicial Magistrate, Thane is transferred to Family Court at Amravati for hearing and final disposal on its own merits.

b) Both the Civil applications are allowed accordingly.

(K.K.TATED, J.)