

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

MISC.CIVIL APPLICATION NO.317 OF 2017

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

Ms.Seema Sarnaik with Mr.Amey Tamhane i/b
Ms.Sanchita S. Thakur for the applicant

Mr.Rajan S. Pawar for the respondent no.1

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

P.C.:

. Leave to amend. Applicant is permitted to carry out amendment in the prayers. Amendment be carried out during the course of the day.

2 Heard.

3 Advocate for the Respondent husband submits that he does not have any instruction from his client. Therefore, it is not possible for him to argue the matter on its own merits.

4 By this Application under section 24 of

the Code of Civil Procedure, 1908, applicant is seeking transfer of Divorce Petition being Hindu Marriage Petition No.78 of 2016 filed by Respondent husband under section 13 of the Hindu Marriage Act, 1955 before the Civil Judge, Senior Division, Jalgaon to the court of Civil Judge, Senior Division, Vasai for hearing on its own merits.

5 The learned counsel for the Applicant submits that Applicant is housewife. She submits that it is very difficult for her to travel from Vasai to Jalgaon. She further submits that there is no direct train from Vasai to Jalgaon. She further submits that even wife also filed Application for restitution of conjugal right under section 9 of the Hindu Marriage Act, 1955 being Marriage Petition No.248 of 2015 before the Civil Judge, Senior Division, Vasai which is pending for hearing and final disposal on its own merits. She submits that both the matters are required to be heard together by the same court.

6 I have heard both the sides at length. It is to be noted that in the present proceeding, applicant wife already filed Marriage Petition No.248 of 2015 under section 9 of the Hindu Marriage Act, 1955 before the Civil Judge, Senior Division, Vasai and same is pending for

hearing and final disposal on its own merits. Apart from that, from Vasai to Jalgaon, there is no direct train. In any case, the distance between Vasai to Jalgaon is more than 400 kms. Applicant has to travel overnight to reach Jalgaon. Considering these facts and as petition filed by the applicant as well as respondent is required to be heard together, I am of the opinion that applicant has made out a case for allowing this application. Hence, following order is passed:

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

"(b) This Hon'ble Court be pleased to transfer of the Divorce Petition bearing HM.78 of 2016 of Respondent No.1's alongwith whole papers and proceedings in the above said matter, pending before Hon'ble Court of Civil Judge (S.D.) at Jalgaon, Maharashtra to the Hon'ble Court of Civil Judge (S.D.) at Vasai for further adjudication and disposal, in the interest of justice."

B. Civil Judge, Senior Division, Vasai is

directed to hear both the Petitions i.e. petition filed by the Applicant wife under section 9 of the Hindu Marriage Act, 1955 being Marriage Petition No.248 of 2015 and petition No.78 of 2016 filed by the Respondent husband for divorce under section 13 of the said Act before the Civil Judge, Senior Division, Jalgaon.

C. No order as to costs.

(K.K.TATED, J.)