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

MIS. CIVIL APPLICATION NO.221 OF 2018

Mrs. Davinder Vaibhav Chavate
W/O Vaibhav Babanrao Chavate ... Applicant
Vs
Mr. Vaibhav Babanrao Chavate ... Respondent
...
Mr. Nandkishore Dubey for the Applicant.

Mr. Amol Deshpande with Ms. Swati Jadhav I/by Mr. Rajendra Anbhule for the Respondent.

CORAM : SANDEEP K. SHINDE J.

DATE : 4 MARCH, 2019

P.C. :

It is an application under Section 24 of the Code of Civil Procedure, 1908 preferred by applicant-wife whereby she is seeking transfer of the Marriage Petition No.A-3056/2016 pending before the Family Court at Bandra, Mumbai to the Court of Civil Judge, Senior Division, Vasco-da-Gama, Goa or any other competent Court in Goa.

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2 Application is opposed by the learned counsel for the respondent-husband. Affidavit-in-reply dated 31st January, 2019 is filed by the respondent.

3 Heard learned counsel for the parties. Perused the application and affidavit-in-reply.

4 Marriage between the applicant and respondent was solemnised on 3rd May, 1993 at Mumbai. Out of the said wedlock, son was born in May, 1996 who is now 22 years old. It appears parties were living together at Mumbai soon before their separation.

5 The respondent herein is living in Denmark with his son Chirag. Respondent has filed subject Marriage Petition for dissolution of marriage at Family Court, Bandra, Mumbai. Applicant-wife seeks transfer of the said Marriage Petition on the ground that she has no independent source of income and travelling to Family Court, Mumbai will cause inconvenience to her. It is her case that distance between Goa and Mumbai to

and fro is about 1000 kms.

6 As against this, it is the respondent's case that there is no direct flight available from Denmark to Goa and, therefore, prosecuting the Marriage Petition at Goa will cause inconvenience to him. It is submitted that the respondent is willing to pay to and fro travelling expenses to the applicant-wife. It is submitted that applicant's relatives are staying at Mumbai and New Mumbai. It is further submitted that the respondent has to take long leave to attend the proceedings at Goa which may be against his conditions of employment. Thus, comparatively more inconvenience will cause to him.

7 In this case, the respondent is living at Denmark. He would otherwise attend the proceedings filed by him in the Family Court, Bandra at Mumbai. The only question is whether transfer of this proceeding from Mumbai to Goa will cause inconvenience to the applicant or to the respondent. It is the inconvenience which is likely to be caused to the applicant-wife

which has to be taken into consideration while exercising jurisdiction under Section 24 of Code of Civil Procedure, 1908. A fact cannot be overlooked that the applicant has no source of income and if proceedings are not transferred then she will be required to travel distance of 1000 km to and fro to attend the proceedings at Mumbai.

8 Thus, the following order:

- (1) The application is allowed in terms of prayer clause (a).
- (2) The learned Judge, Family Court, Bandra shall transfer the papers and proceedings in Marriage Petition No.A-3056 of 2016 to the Court of Civil Judge, Senior Division, Vasco-da-Gama;
- (3) The parties, as well as, the learned Civil Judge, Senior Division, Vasco-da-Gama to act on an authenticated copy of this order;
- (4) Parties to appear before the learned Civil Judge,

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Senior Division, Vasco-de-Gama at Goa on 22nd April, 2019 either personally or through their advocate.

(5) The learned Civil Judge, Senior Division, Vasco-de-Gama shall exempt presence of the respondent-husband unless it is absolutely necessary;

(6) Application is allowed in the aforesaid terms. No order as to costs.

(SANDEEP K. SHINDE, J.)