

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

MISC. CIVIL APPLICATION (ST.) NO. 17514 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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Megha Bajoria for the Applicant.

**CORAM: K.K.TATED, J.
DATED : OCTOBER 1, 2019**

P.C.

1 Heard Learned Counsel for the Applicant.

2. Though the Respondent is duly served, no one appeared on behalf of him when the matter was called out.

3. This Court by order dated 10/07/2019 directed Registry to issue notice to the Respondent for final disposal. Office note shows that, Respondent is duly served by private notice. To that effect the advocate for the Applicant has filed affidavit of service. In spite of this, no one appeared on behalf of the Respondent.

4. By this Application under Section 24 of the CPC, the Applicant wife is seeking

transfer of Hindu Marriage Petition No. A-117/2019 filed by the Respondent-husband under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights before the Family Court at Nashik to the Civil Judge, Senior Division, Kalyan, Dist. Thane for hearing and final disposal on its own merits.

5. The Learned Counsel for the Applicant submits that it is very difficult for the Applicant to attend each and every date at Family Court, Nashik because she has to lookafter her both the children aged 6 and 8 years. She further submits that, the Applicant has already filed application under Section 12 of the Protection of Women from Domestic Violence Act before the JMFC, Kalyan bearing No. 123/2018. She submits that, the Applicant also filed application for maintenance. She submits that, both these matters are pending at Kalyan. Therefore, in the interest of justice, this Hon'ble Court be pleased to transfer the Hindu Marriage Petition filed by the Respondent-husband at Family Court, Nashik to the Civil Judge, Senior Division at Kalyan for hearing and final disposal on its own merits.

6. It is to be noted that, it is very difficult for the Applicant to travel from Kalyan to the Nashik on each and every date to attend the matter filed by the Respondent-husband along with both the minor children aged 6 and 8 years. Apart from that, two cases filed by the Applicant. One under D.V. Act and another for maintenance are pending before the Court at Kalyan.

7. Considering the submissions made by the Learned Counsel for the Applicant and the averments made in Misc. Civil Application, I am satisfied that the Applicant has made out case for allowing this application. Hence, the following order:

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

“A. That this Hon’ble Court be pleased to direct to transfer the proceedings in Petition No. A-117 of 2019, filed under Section 9 of the Hindu Marriage Act, 1955, presently pending on the file of the Family Court at Nashik to Civil Judge, Senior Division at Kalyan, Dist. Thane.”

b. Misc. Civil Application stands disposed of accordingly

c. No order as to costs.

(K.K.TATED, J.)