

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

MISC. CIVIL APPLICATION NO. 297 OF 2018

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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Ms. Shilpa Joshi for the Applicant.

**CORAM: K.K.TATED, J.
DATED : SEPTEMBER 24, 2019**

P.C.

- 1 Heard Learned Counsel for the Applicant.
2. Though all the Respondent is duly served, no one appeared on behalf of them when the matter is called out.
3. Office notes shows that the Respondent Anand Gopal was present before this Court on 12/10/2019. Thereafter, he never appeared before this Court. Hence, the Applicant preferred Civil Application St. No. 510/2019 for substituted service. Prayer Clause (a) of the Civil Application reads thus:

“a. that this Hon’ble Court be pleased to allow the Applicant to serve notice on the Respondent by substituted service by sending the same on the part of the address Flat No. 202, Building No. R-1, Near Lahuji Chauk, Anna Bhau Sathe Nagar, Mankhurd(w),

Mumbai 400043 as well as by Court and also by RPAD”

4. The Learned Counsel for the Applicant submits that the said Civil Application was allowed by this Court by order dated 23/01/2019. Office note shows that the Respondent is duly served by substituted service.

5. By this Misc. Civil Appliation under Section 24 of the Civil Procedure Code, the Applicant-wife is seeking transfer of the Hindu Marriage Petition No. A-2141/2017 filed by the Respondent-husband under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights from the Family Court at Bandra to the Civil Judge, Senior Division, Parbhani.

6. The Learned Counsel for the Applicant submits that, the Applicant is staying at Jintur, Dist. Parbhani. She submits that it is very difficult for the Applicant to attend the matter on each and every date in Family Court at Bandra, Mumbai. The Applicant has to travel more than 12 hours along with minor child of five years which is very difficult. She further submits that, even the Applicant filed application under Section 125 of the Cr.P.C. against the Respondent before the Learned

Magistrate at Jintur and the same is pending for hearing and final disposal. She submits that, the Respondent is attending the said matter at Jintur. She submits that, the Applicant has also filed application under Protection of Women from Domestic Violence Act, 2005 bearing No. 18/PWDVD/2017 and Criminal M.A. No. 844 of 2017 before the Learned Magistrate at Jintur. The same are also pending for hearing and final disposal on its own merits. She submits that, in the interest of justice, this Hon'ble Court be pleased to transfer the petition filed by the Respondent before the Learned Family Court at Bandra and and the matters filed by the Applicant at Jintur to the Civil Judge, Senior Division at Parbhani for hearing on its own merits. She submits that if the application is not allowed irreparable loss will cause the Applicant.

7. It is to be noted that in the present proceeding the cases filed by the Applicant before the Court at Jintur are pending for hearing and final disposal on its own merits. To travel from Jintur to Mumbai, it takes minimum 12 hours. The Applicant to take care of her child who is five years old. Considering all these facts, I am of the opinion that, the Applicant has made out a case for allowing the

Misc. Civil Application. Hence, the following order:

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

“a. this Hon’ble Court be pleased to transfer the proceedings pending before the 7th Family Court at Bandra, Mumbai being M.J. Petition No. A-2141 of 2017 to the Civil Judge, Senior Division, Parbhani and also transfer Criminal M.A. No. 66 of 2017, Case No. 18/PWDVD/2017 and Criminal M.A. No. 844 of 2017 from Jintur Court to the Civil Judge Senior Division, Parbhani.”

b. Misc. Civil Application stands disposed of accordingly.

c. No order as to costs.

(K.K.TATED, J.)