

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION

MISC. CIVIL APPLICATION NO.244 OF 2018

Mrs. Sonali Avinash Daivadnya		
@ Sonali Vijay Dharashivkar	...	Applicant
Versus		
Mr. Avinash Shriram Daivadnya	...	Respondent

.....
Mr. Rajesh A. More for the Applicant.
None for the Respondent.

CORAM : S.C. GUPTE, J.

DATE : 28 NOVEMBER 2019

P. C. :

. Heard learned Counsel for the Applicant. None for the Respondent despite notice. The Respondent has been served privately as well as through court notice; even a special notice has been served on him indicating that the Misc. Civil Application may be taken up for final hearing and disposed of. Yet, no one appears for the Respondent.

2 The Misc. Civil Application seeks transfer of a matrimonial proceeding, being a petition for restitution of conjugal rights filed by the Respondent-husband in the Court of Civil Judge Senior Division at Kalyan. The Applicant wife has filed a prior petition for divorce, being Marriage Petition No.1254 of 2016, before the Family Court at Pune. Having first made an application for transfer of that petition

from the Family Court at Pune to the District Court at Thane or at Palghar, which application was rejected by a learned Single Judge of this court by her order dated 18 April 2018, the Respondent appears to have proceeded to file his own petition for restitution of conjugal rights under Section 9 of Hindu marriage Act, 1955, being HMP No.885 of 2018, in the Court of Civil Judge Senior Division at Kalyan. Now the Applicant-wife seeks transfer of that proceeding from Kalyan to Pune. Since a prior petition filed by the Applicant-wife has been pending adjudication before the Family Court at Pune and considering the facts noted above, it is in the interest of justice that the Respondent-husband's petition for restitution should be transferred to the Family Court at Pune, so that it could be clubbed, and heard along, with the Applicant's petition for divorce pending before that court. The Misc. Civil Application is, accordingly, allowed by ordering transfer of HMP No.885 of 2018 pending before the Civil Judge Senior Division at Kalyan to the Family Court at Pune, before whom the Applicant-wife's petition for divorce, being P.A. No.1254 of 2016, is pending. The Family Court at Pune is requested to club the two proceedings and hear the same together. The Misc. Civil Application is disposed of accordingly.

(S.C. GUPTE, J.)

Rajesh V.
Chittewan

Digitally signed
by Rajesh V.
Chittewan
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