

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

MISC. CIVIL APPLICATION (ST) NO.31182 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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Mr.Swapnil Mhatre i/b M/s. Shah Sarika
Nitinkumar for the applicant

**CORAM : K. K. TATED, J
DATE : JULY 22, 2019**

P.C.:

. Heard.

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

3 Office note shows that Respondent is duly served. Even earlier order dated April 22, 2019 passed by this court (Coram: Sandeep K.Shinde, J.) recorded that Respondent is duly served.

4 This Application is filed by wife under section 24 of the Code of Civil Procedure, 1908

for transfer of Marriage Petition No.A 1982 of 2017 filed by the Respondent husband for restitution of conjugal rights under section 9 of the Hindu Marriage Act, 1954 from Family Court, Bandra, Mumbai to the Family Court at Nashik 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 travel from Nashik to Mumbai to attend the matter from each and every date. He submits that Applicant has three years old baby. He further submits that baby is not keeping well nowadays. He submits that baby was operated for her illness. To that effect, the Advocate for the Applicant relies on ground no.(e) and (f) of the present Application which reads thus:

"e) Also the son Utkarsh is having very delicate health & requires to be admitted several times for medication in hospital. Hereto annexed and marked as EXHIBIT - D Colly are the copies of reports, receipts of medication of son Utkarsh Manjarekar. Considering the health of the minor, taking him alongwith the Applicant to attend the Court proceedings at Bandra results in

further exertion of the child.

f. The son Utkarsh recently got operated for the disease Phimosi s at Nashik. Hereto annexed and marked as EXHIBIT -E colly are the certificates & the bill of Hospital. In this condition it is very difficult to carry child to attend the proceedings at Bandra as there is no one to look after the child as the parents of the Applicant also frequently remains ill."

6 The learned counsel for the Applicant submits that even financial condition of the Applicant is not good. Applicant is housewife. Therefore, in the interest of Justice, this Hon'ble Court be pleased to transfer the Marriage Petition filed by Respondent husband from Mumbai to Nashik for hearing and final disposal on its own merits.

7 It is to be noted that in the present proceeding, Applicant also filed Criminal Application No.1315 of 2017 under sections 12, 17, 18, 19, 20 and 22 of the Protection of Women from Domestic Violence Act, 2006 before the Judicial Magistrate, First Class at Nashik and same is pending for hearing and final disposal on its own merits. Apart from

that, Applicant has small baby who is three years old. She is not keeping well. Considering these facts, Applicant has made out a case for allowing this the Misc. Civil Application. Hence, following order is passed:

- a. Hindu Marriage Petition No.1982 of 2017 filed by Respondent husband for restitution of conjugal rights under section 9 of the Hindu Marriage Act, 1954 before the Family Court at Bandra, Mumbai is transferred to Family Court at Nashik for hearing and final disposal on its own merits.
- b. Misc. Civil Application is allowed accordingly.
- c. No order as to costs.

(K.K.TATED, J.)