

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Misc. Civil Application No. 30/2019

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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Mr. Satusg S. Mande for the applicant.
Mr. Prashant Pandit Salve – respondent in person.

CORAM : K.K.TATED, J.
DATED : JUNE 10, 2019

P.C.

1 Heard. This Application is filed by wife under section 24 of the Code of Civil Procedure, 1908 for transfer of Marriage Petition No.502/2018 filed by the Respondent husband u/s.13(1)(ia)(ib) of the Hindu Marriage Act, 1955 for divorce before the Family Court, Nasik to Family Court at Bandra, Mumbai, on several grounds.

2 The learned counsel for the Applicant has mainly relied on paragraph 12 of the Application, which reads thus:

“12. The petitioner submits that she is residing at Mumbai and she is not having any source of income and also the Respondent has not paid the maintenance amount till date which comes to ₹,69,200/- from the DV Case

*and the amount from 125 Cr.P.C. in Family Court from April 2017 to October 2018 for 19 months (19 x 5000 = 95000/-) is due from the Respondent so it is very hardship to the Petitioner to travel from Mumbai to Nashik with her son who is having problem of Learning disability who is studying in 10th std. at Rosary High School, Dockyard Road, Mazgaon, Mumbai - 400010. The copy of the Medical Certificate is annexed and marked as **Exh. "J"** and School Calendar of year 2018-2019 is annexed and marked as **Exh. "K"**.*

3 The learned counsel for the Applicant submits that it is very difficult for the Applicant to travel from Mumbai to Nasik on each date along with her son, who has learning disability. He is studying in 10th standard in Mumbai. He submits that though the Trial Court has passed order u/s.125 Cr.P.C. and in the proceedings filed under the Protection of Women from Domestic Violence Act, 2005, the Respondent has failed to pay the maintenance to the Applicant to the tune of Rs.7,59,200/-. He submits that the Applicant has already filed Execution Application before the Family Court at Bandra, Mumbai. Therefore, this is a fit case to transfer the said marriage petition to the Family Court at Mumbai from Family Court at Nasik.

4 The Respondent-in-person has vehemently opposed the present Application. After arguing for some time, he submits that he has no objection to transfer the marriage petition from Nasik to Mumbai for hearing on merits. However, it may be disposed of as early as possible. To that effect, he has given in writing. Same is taken on record and marked "X" for identification.

5 Hence, by consent of the parties, following order is passed:

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

"(a) that this Hon'ble Court be pleased to transfer the petition No.A 502 of 2018, pending before the Hon'ble Family Court Nashik and to pass an order of transferring the same to Hon'ble Family Court, Bandra, at Mumbai"

b. The Family Court at Bandra, Mumbai is directed to decide the Respondent - husband's petition for divorce being No.502/2018 filed in the Family Court at Nasik u/s.13(1)(ia)(ib) of the Hindu Marriage Act, 1955, as early as possible but in any case on or before December 2020.

c. The Misc. Civil Application stands disposed of accordingly.

d. No order as to costs.

(K.K.TATED, J.)