

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

MISC. CIVIL APPLICATION NO. 293 OF 2018

Manisha Ashish Bagam

..... Applicant.

Vs.

Ashish Arjun Bagam

..... Respondent

.....
Trupti A. Bharadi for the Applicant.
Deepak R. Kushwaha for the Respondent.

.....

**CORAM : K.K.TATED, J.
DATED : AUGUST 2, 2019**

P.C.

1 Heard Learned Counsel for the parties.

2. By this Misc. Civil Application under Section 24 of the Civil Procedure Code, the Applicant wife is seeking transfer of Hindu Marriage Petition No. A 2528 of 2018 pending before the Family Court, Bandra, Mumbai filed by the Respondent husband for divorce to the Civil Judge, Senior Division, Islampur for hearing and final disposal on its own merits along with Hindu Marriage Petition No. 66 of 2018 filed by the Applicant wife under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights.

3. The Learned Counsel for the Applicant submits that, the Applicant is residing at Mahadevwadi, Tal. Walava, Dist. Sangli which comes in the

jurisdiction of the Civil Judge, Senior Division, Islampur. She submits that the Applicant filed petition under Section 9 of the Hindu Marriage Act for restitution of conjugal rights on 4th April 2018 and thereafter, the Respondent husband filed Petition No. A 2528/2018 before the Family Court at Bandra, Mumbai for divorce on 23rd August, 2018. She submits that the petition filed by the Respondent is subsequent matter. Hence, the same is required to be transferred from Bandra to Islampur i.e. Dist. Sangli. She further submits that another petition under the Protection of Women from Domestic Violence Act, 2005 is also pending at Islampur, Dist. Sangli. She submits that it is very difficult for the Applicant to travel from Sangli to the Mumbai. The journey from Sangli to Mumbai is of more than 8 to 10 hours even by railway. Therefore, in the interest of justice, this Hon'ble be pleased to transfer the Hindu Marriage Petition No. A 2528 of 2018 filed by the Respondent husband for divorce from the Family Court, Bandra, Mumbai to the Court at Islampur, Dist. Sangli.

4. On the other hand, the Learned Counsel for the Respondent vehemently opposed the present application. He submits that the Applicant's address on several documents shows of Mumbai. The Applicant has filed the Hindu Marriage Petition under Section 9 of the said Act at Islampur just to harrass the Respondent. He further submits that if the matter is transferred from Mumbai to Islampur, it will be very difficult for the Respondent to attend on each and every date. Therefore, there is no question allowing the present application.

5. I heard both sides at length. Admittedly, in the present proceeding the Applicant wife filed the Petition under Section 9 of the Hindu Marriage Act before the Islampur Court on 4th April 2018 and thereafter, the Respondent husband filed Hindu Marriage Petition No. A 2528 of 2018 on 23rd August, 2018 under Section 13(1) (ia) of the said Act for divorce. Therefore the subsequent proceeding is required to be transferred and be heard alongwith the petition filed by the Applicant wife.

6. Considering these facts and the distance between Sangli to Mumbai, I am satisfied that the Applicant has made out case for allowing this application. Hence, the following order is passed:

- a. Marriage Petition No. A 2528 of 2018 filed by the Respondent before the Family Court at Bandra, Mumbai under Section 13(1) (ia) of the Hindu Marriage Act, 1955 is transferred to the Civil Judge, Senior Division, Islampur, Dist. Sangli for hearing and final disposal on its own merits along with Hindu Marriage Petition No. 66 of 2018.
- b. The Misc. Civil Application stands disposed of accordingly.
- c. No order as to costs.

(K.K.TATED, J.)