

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CIVIL APPELLATE JURISDICTION**  
**MISCELLANEOUS CIVIL APPLICATION NO. 211 OF 2018**

Dhondabai @ Laxmi Kailash Dudhal ... Applicant

V/s.

Kailash Narayan Dudhal ... Respondent

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 Mr. Nagesh Y. Chavan for the applicant.

Mr. Vinod Kashid for the respondent.

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**CORAM : SMT. SADHANA S. JADHAV, J**

**DATED : 26<sup>th</sup> FEBRUARY 2020**

**PC. :**

. This is an application seeking transfer of Marriage Petition No. A-266 of 2018 pending before the Family Court at Bandra to Civil Judge Senior Division, Sangli. The learned counsel for the applicant submits that the marriage of the applicant was solemnized with the respondent in the year 1979. The couple is blessed with two sons and a daughter and that the respondent is working in the railway department.

2. It is contended that the applicant herein has to take care of her daughter who is diagnosed with profound mental retardation.

3. It is the contention of the learned counsel for the applicant that it is difficult for the applicant to attend all the dates before the

Family Court at Bandra. That the applicant filed an application under section 125 of Cr.P.C. That, she had also filed proceedings under the provisions of the Protection of Women from Domestic Violence Act, 2005 at Jat. The Judicial Magistrate First Class, Jat in the said proceedings had granted interim maintenance @ 6000 in favour of the applicant which was challenged by filing Criminal Appeal No. 22 of 2018 before the Sessions Judge, Sangli. The respondent had appeared in the said proceedings at Jat.

4. It is contended that the respondent had filed an application under section 127 of Cr.P.C. at Jath. The applicant has expressed her inability to attend all the schedule dates before the Family Court at Bandra.

5. As against this, the learned counsel for the respondent vehemently submits that in fact, in the year 2007 itself by judgment and order dated 3<sup>rd</sup> November 2007 a decree of restitution of conjugal rights was passed in favour of the respondent. That the applicant herein has not abided by the said decree. However, it appears that no execution was filed in respect of execution and implementation of the said decree.

6. The learned counsel for the respondent vehemently submits that it was in these circumstances, the he had filed Divorce Petition in the year 2018. That the applicant has appeared in the said proceedings through attorney. It is submitted that the applicant herein had filed report under section 498 (A) against the respondent at

Bandra Police Station. In the course of hearing of the anticipatory bail action under section 438 of Cr.P.C., the applicant had filed intervention petition before the Court. It is submitted that the applicant visits office of the respondent and creates a ruckus. In short the contention of the respondent is that the applicant is able to attend all the dates in Bandra, therefore, it is not necessary to transfer Marriage Petition to Sangli.

7. It is also the contention of the learned counsel for the applicant that the respondent has re-married and that there are two children from the second marriage. However, the said contention is refuted by the respondent by stating that he has hired services of a woman to take care of his mother.

8. Taking into consideration the facts of the case and the fact that law of equity and convenience would fall in favour of the applicant wife, this court is inclined to grant the application seeking transfer from Family Court, Bandra to the Court of Civil Judge Senior Division at Sangli. It is much easier for the applicant to travel to Sangli. However, it would cause inconvenience to the applicant to appear on each and every date. Moreover, the applicant has to take care of the special child who is residing with her and that there is no one to look after her.

9. In view of this, application is allowed. The Marriage Petition No. A-266 of 2018 pending before Family Court at Bandra is transferred to the Court of Civil Judge Senior Division, Sangli. The

matter be transferred within six weeks from today.

10. The learned Judge shall not be influenced by any of the observations made hereinabove as they are restricted to the application seeking transfer of the matter from one court to another court.

**(SMT. SADHANA S. JADHAV, J)**