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Chavan

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

MISC. CIVIL APPLICATION NO.158 OF 2019

Mrs. Hina Vijay Pathak @ Hina Kamlesh Sharma

...Applicant

Vs.

Vijay Roopkishor Pathak

...Respondent

Mr. Aniesh Jadhav, Advocate for Applicant.
None for the Respondent.

**CORAM : C.V. BHADANG, J.
DATE : 14th OCTOBER, 2020
(Through Video Conferencing)**

P.C.

1. This is an application under Section 24 of the Code of Civil Procedure, 1908 for transfer of Marriage Petition No. 328 of 2018 from the file of learned Civil Judge, Senior Division, at Khed, Rajgurunagar, Pune to the Family Court at Mumbai.

2. The parties are husband and wife. Marriage Petition No. 328 of 2018 is filed by the Respondent/husband against the Applicant seeking dissolution of marriage and for custody of their minor son. The said petition is pending before the learned

Civil Judge, Senior Division at Khed, Rajgurunagar, District – Pune. The Applicant is presently residing at Andheri (East), Mumbai and is seeking the transfer of the Marriage Petition as aforesaid.

3. I have heard the learned Counsel for the Applicant. The Affidavit of service filed by the Applicant shows that the Respondent is duly served. However, Respondent has chosen not to appear.

4. It is now well settled that normally in such a case, it is the convenience of the wife which has to be seen and which shall take precedence. In this regard a useful reference may be made to the decision of the Supreme Court in the case of *Rajani Kishor Pardeshi v/s. Kishor Babulal Pardeshi, (2005) 12 SCC 237 and Smita Sharma v/s. Vivek Sharma, (2004) 13 SCC 607*.

5. In the result, the following order is passed:

ORDER

i) Misc. Civil Application is allowed.

ii) Marriage Petition No. 328 of 2018 is withdrawn from the file of the learned Civil Judge, Senior Division at Khed, Rajgurunagar, District- Pune and is transferred to the file of the Family Court at Mumbai for disposal according to law.

C.V. BHADANG, J.