

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISCELLANEOUS CIVIL APPLICATION NO. 313 OF 2019**

Mrs. Bhagyashree Shankar Gangthade ... Applicant

V/s.

Mr. Shankar D. Gangthade ... Respondent

Mr. Yatin Malvankar for the applicant.

Mr. Samarth Moray I.by Mr. V.S. Talkute for the respondent.

CORAM : SMT. SADHANA S. JADHAV, J

DATED : 27th JANUARY 2020.

PC. :

1. Heard.
2. Rule.
3. Rule made returnable forthwith with the consent of the parties.
4. The applicant herein happens to be the wife of the respondent, their marriage was solemnized in the year 2010 and on 25th April 2011 a daughter was born. It appears that a discordant note had struck between the parties and that the applicant was constrained to file a petition under the provision of the Protection of Women From Domestic Violence Act, 2005 at Pune where she is working with a subsidiary branch of HDFC bank. Her daughter is school going. That

the respondent herein had filed a petition under section 9 of Hindu Marriage Act at Nilanga on 23rd November 2018 after he had received the summons in proceedings under the Domestic Violence Act, which was filed in January 2018. In November 2018 the respondent had filed a petition under section 9 of Hindu Marriage Act only to defeat the prayer granting maintenance filed by the applicant. The respondent had admitted in the petition that he was also working at Pune and that the couple had purchased a house. However the marriage petition seeking restitution is filed at Nilanga, District – Latur. The respondent has shown his residence at Ansarwada, Tal-Nilanga without stating his profession therein. It appears from the order passed by the Court in Criminal Miscellaneous Application No. 94 of 2018, the respondent was working with A.U. Finance Limited and that he was terminated from the job. The learned counsel for the applicant submits that in the given circumstances, the applicant is seeking transfer of Hindu Marriage Petition No. 85 of 2018 pending before the Civil Judge Senior Division at Nilanga to the Family Court at Pune.

5. It is true that the applicant would have to travel along with her daughter for which she would have to take leave from service and that her daughter would miss the school in order to attend proceeding in Hindu Marriage Petition No. 85 of 2018 and in any case, the proceedings under the Domestic Violence Act were filed much prior to filing the Hindu Marriage Petition. It is also submitted that the parties admit that all efforts for mediation have failed at all levels.

6. In view of this, the applicant seeking transfer deserves to be allowed. The parties to the application are at liberty to seek the same date for hearing of both the petitions. The application is allowed in terms of prayer clause (a) and stands disposed of.

(SMT. SADHANA S. JADHAV, J)