

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

MISC. CIVIL APPLICATION NO. 397 OF 2022

Mrs. Akshata Abhijeet Tambe

Adult, Indian Inhabitant, Hindu

Age about 36 years, Occupation: Service,

Residing at 3A/65, Bhakti Yog Society,

Vazira Naka, L. T. Road,

Paranjape Nagar, Borivali West,

Mumbai – 400 092.

... **Petitioner**

Versus

Abhijeet Arun Tambe

Adult, Indian Inhabitant, Hindu,

Age about 37 years,

Occupation: Business

Residing at Flat No. C-21/8,

Kaiwalya CHS, Near Citi Pride

Theatre, Kothrud, Pune – 411 038.

... **Respondent**

.....

Mr. Pritesh K. Bohade, for the Petitioner.

Mr. Rahul Kasbekar i/b Mr. Paras D. Yadav, for the Respondent.

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CORAM : PRITHVIRAJ K. CHAVAN, J.

RESERVED ON : 10th MARCH, 2023.

PRONOUNCED ON : 17th MARCH, 2023.

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PATIL

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ORDER

1. By this Petition, the petitioner/wife seeks transfer of Petition No.A/2596 of 2021 filed by the respondent/ husband in the Family Court at Pune for divorce to Family Court at Bandra.

2. The petitioner and the respondent were married on 14th December, 2016 at Pune. For a first few years the relations were cordial, however, there was a discord. The petitioner and the respondent cohabited together from the year 2017 to 2019 at Pune. It is the contention of the petitioner that after the demise of her father, there was no one to take care of her aged and ailing mother. As such, the respondent himself obtained a premises on Leave and License basis at Borivali, Mumbai. The said Leave and License again came to be renewed on 3rd January, 2020. It appears from the contention of the petition that the respondent initially helped the petitioner and her mother during her ailment, also by giving financial help. It is contended that the respondent was working in a Europe Incoming Tours and Travels Company, Jogeshwari, Mumbai in Managerial position and was earning around Rs.1,00,000/- per month with additional income of Rs.60,000/- per month from his personal business of Travel Agent.

3. The petitioner contends that she is working as a teacher in Kohinoor College of Hotel Management, at Dadar. She earns Rs.30,000/- per month. According to the petitioner, the respondent had left the matrimonial home on 20th March, 2020 without any reason. He left her company and went to reside at Pune.

4. The petitioner, therefore, filed a Petition for restitution of conjugal rights bearing No. A/2796 of 2021 under Section 9 of the Hindu Marriage Act, 1955 in the Family Court at Bandra. The respondent has already appeared before the Marriage Counsellor.

5. Thereafter, it is contended that the respondent has filed divorce petition as a counter blast in the Family Court at Pune.

6. As such, the petitioner has prayed for transferring the Petition filed by the respondent before the Family Court at Pune to the Family Court at Bandra.

7. The Petition can be disposed of finally at the stage of Admission.

8. Heard learned Counsel for the respective parties.

9. It is an admitted fact that the Petition for restitution of conjugal rights bearing No. A/2796 of 2021 came to be filed by the petitioner prior to the Petition for divorce filed by the respondent bearing No. A/2596 of 2021 at Family Court Pune. The petitioner has tendered a photostat copy of her appointment letter with Kohinoor College of Hotel & Tourism Management Studies at Exh. E. The terms and conditions in the appointment letter would indicate that the working hours of the petitioner are from 8:00 a.m. to 6:30 p.m. for all working days i.e. Monday to Friday and there would be half day on Saturday. She is entitled to take maximum seven days casual leave and her consolidated pay is amounting to Rs.30,000/- per month.

10. Considering the said aspect and also the peculiar circumstances of the petitioner, it would be difficult for the petitioner to travel to Pune for attending the case before the Family Court. Prima facie, her income is also not sufficient to take care for herself and her ailing mother. It appears that the petitioner has not been successful in getting any interim maintenance from the

respondent. In the case of **Sumita Singh Vs. Kumar Sanjay and Anr.**¹, it is held by the Hon'ble Supreme Court that convenience of the wife should be looked into while transferring the matrimonial proceedings.

11. As such, there can be expeditious disposal of both the Petitions by one Court and also contingency of rendering two conflicting judgments can be avoided by transferring the Petition pending before the Family Court at Pune to Family Court at Bandra.

12. The Petition is allowed.

13. Petition No. A/2596 of 2021 pending before the Family Court at Pune shall stand transferred to Family Court at Bandra.

14. The learned Family Court at Bandra shall decide both the Petitions expeditiously.

15. Petition stands disposed of in aforesaid terms.

[PRITHVIRAJ K. CHAVAN, J.]

¹ (2001) 10 Supreme Court Cases 41