

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****MISCELLANEOUS CIVIL APPLICATION NO. 77/2026****AKSHAY SANJAY SAWANT****..... APPLICANT****VS****SAMPADA AKSHAY SAWANT****..... RESPONDENT**

Adv. Mohit Dalvi (Thr. V.C.) a/w. Adv. Pritesh Kadam, Adv. Sakshi Kamble for the Applicant.

CORAM : RAJESH S. PATIL, J.**DATE : 6 MARCH, 2026****P.C. :-**

1) By the present miscellaneous civil application, the applicant, the husband of the respondent is seeking transfer of the marriage petition filed by the wife before the Civil Judge Senior Division at Kalyan, District Thane to the court of Civil Judge Senior Division at Khed, District Ratnagiri.

2) From the record, it can be seen that the respondent-wife has filed a marriage petition for divorce under Section 13 of the Hindu Marriage Act, 1955 on 19 September, 2025. The husband has filed divorce petition under Section 13 of the said Act on 22 September, 2025.

3) In the judgment of ***Miscellaneous Civil Application No. 124 of 2024 Suprabha Nitesh Patil @ Suprabha Anant Kot vs. Nitesh Gajanan Patil alongwith Miscellaneous Civil Application No. 415 of 2024 Nitesh Gajanan Patil vs. Suprabha Nitesh Patil @ Suprabha Anant Khot*** considering the provisions of Section 21-A of the Hindu Marriage Act, 1955 and sub-Sections (1) (a) and (2) (b) of Section 21-A, I have held that if both the parties have filed a petition for divorce under Section 13 or under Section 10 of Hindu Marriage Act, in such a case, if the proceedings are in two different districts, the later petition be transferred to the district Court in which the petition which is filed earlier in time is pending for hearing.

Paragraph nos. 6.1 and 7 read as under :-

6.1) It is pertinent to note that Sub-section (2)(b) of Section 21-A of Hindu Marriage Act, mentions the word “shall”, so also sub-Section (3) mentions the word “shall” and whereas Sub-section (1) of Section 24 of C.P.C. uses the word “may”. Therefore, the power to transfer proceedings are general in nature under Section 24 of C.P.C. to the High Court or the district court. Therefore, Section 21A of the Hindu Marriage Act, the word ‘shall’ is used, while in C.P.C., Section 24, the word ‘may’ has been used and in any case, the Hindu Marriage Act is a special law, while the C.P.C. is a general procedural law. While dealing with petition under Section 21A (1)(b) and 2(b), the Courts have to exercise powers of transfer under C.P.C. as mentioned in sub-section (3). In the present proceedings, the husband’s application is filed under Section 21A of Hindu Marriage Act read with Section 24 of C.P.C. This section was in existence before the Hindu Marriage Act, 1955 came into force, unlike the amended section 25 of the C.P.C., which gives power to Supreme Court, to transfer suits after the 1976 amendment to C.P.C.

7) Hence, in my view taking into consideration the provisions of Section 21-A of the Hindu Marriage Act, when the proceedings are filed by the husband or wife under Section 10

(Judicial Separation) or for a decree of divorce under Section 13, and thereafter another proceeding is filed by the other party to the marriage praying for judicial separation under Section 10 of Hindu Marriage Act or for a decree of divorce under Section 13, are presented to different district Courts, the petition presented later shall be transferred to the district Court in which the earlier petition was presented and both the petitions shall be heard and disposed of together by the district Court in which the earlier petition was presented.

4) In view of the same, the present miscellaneous civil application stands dismissed.

5) The **Registrar (Judicial-I)** will communicate this order to the **Civil Judge Senior Division at Kalyan, District Thane** and the **Civil Judge Senior Division at Khed, District Ratnagiri** and also to the **Registrar (Judicial-I) of High Court of Judicature at Bombay, Circuit Bench, Kolhapur via E-mail.**

[RAJESH S. PATIL, J.]