

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CIVIL APPLICATION [MCA] NO.1075 OF 2017

(Sau. Purva @ Sangita Chandrashekhar Mhaske
vs.
Chandrashekhar Suresh Mhaske)

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri M. Badar, Advocate for the Applicant.
Shri D.A. Sonwane, Advocate for the Non-Applicant.

CORAM : P.N. DESHMUKH, J.
DATE : 23rd NOVEMBER, 2017.

Heard the learned Counsel for the parties.

This application is filed by the applicant-wife seeking transfer of A-Petition No.438/2017 pending before the Family Court at Nagpur to the Family Court at Akola.

During the course of hearing and in the grounds as mentioned in the application, it is submitted that applicant has initiated proceedings being M.C.A. No.723/2017 under the Protection of Women from Domestic Violence Act and the same is pending before the competent Court of Judicial Magistrate First Class, Court No.6, Akola. Similarly, the applicant is also said to have filed application under Section 9 of the Hindu Marriage Act for restitution of conjugal rights before the Family Court

at Akola and also had filed an application under Section 125 of the Code of Criminal Procedure vide E-Petition No.107/2017, which is pending before the Family Court at Akola. It is also admitted by the learned Counsel for the parties that in addition to above proceedings, the applicant has also filed proceedings under Section 498 of the Indian Penal Code and the same are pending before the Court of Judicial Magistrate First Class, Akola. Admittedly, in the present application, there is no reference of other proceedings initiated by the applicant in the Courts at Akola, as aforesaid, except the proceedings initiated under the Protection of Women from Domestic Violence Act vide M.C.A. No.723/2017.

The learned Counsel for the non-applicant has admitted that the non-applicant is served with notices in all these proceedings initiated by the applicant, as he is attending the said proceedings. While opposing the present application, the learned Counsel for the non-applicant has relied upon the law laid down in the case of **Krishna Veni Nagam vs. Harish Nagam** reported in **2017(4) Mh.L.J. 764** and has submitted that in view of the judicial pronouncement in this case while considering transfer

of matrimonial proceedings, it is necessary to consider the hardship of litigants and necessary orders be passed to reduce hardship.

Having considering the facts that number of proceedings are already initiated against the non-applicant and are pending at Akola, and in view of law laid down as aforesaid, it is found that the authority in fact supports the case of the applicant herself. Inasmuch as the proceedings initiated by the non-applicant at Nagpur and pending before the Family Court, Nagpur, if are transferred to the Family Court at Akola, it would be convenient for the non-applicant himself, as even otherwise the applicant is required to travel distance of about 260 kms between Nagpur to Akola to attend the proceedings initiated by the applicant.

In view of the facts as aforesaid, the application is disposed of by passing a suitable order as follows :

- i. A-Petition No.438/2017 filed by the non-applicant and pending on the file of Family Court at Nagpur stands transferred to the Family Court at Akola.

- ii. Needless to say that learned Court shall as far as possible fix the said petition for hearing on the said date on which the petition being E-Petition No.107/2017 filed by the applicant-petitioner is fixed for hearing, which would be convenient for the non-applicant.
- iii. Parties to appear before the Family Court at Akola on 11th December, 2017.
- iv. Civil application is allowed and disposed of in the above terms with no order as to costs.

**sdw*

JUDGE