

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

MISCELLANEOUS CIVIL APPLICATION NO.1100 OF 2016

Smt. Monika w/o Prashant Jaurkar

..Applicant

Versus

Shri Prashant s/o Ramesh Jaurkar

..Respondent

Mr H.I. Kothari and Mr A.S. Ingole, Advocates for applicant
Mrs Vrushali Jagirdar, Mrs Swati Kulkarni/Potey, Advocate for
respondent

CORAM : N.W. SAMBRE, J.

DATE : 18th April 2017

PER COURT

Heard.

2. The respondent-husband filed Hindu Marriage Petition No.298 of 2016 under Section 13 (ia) of the Hindu Marriage Act for divorce. The transfer of the said proceedings is sought by the applicant-wife to Nagpur on the count that she suffers hardship for attending the proceedings at Wardha as she is permanent resident of Nagpur. An additional submission is made that the non-applicant husband though is shown to be resident of Hinganghat, however, he is serving in Nagpur and everyday he is required to travel to Nagpur. It is submitted that it is also convenient for the non-applicant husband to attend the proceedings at Nagpur.

3. Per contra, learned Counsel for the non-applicant husband would urge that the proceedings which are initiated by the applicant-wife being Hindu Marriage Petition No.A-1171/2016 are subsequent in point of time though under the provisions of Section 13 (1) of the Hindu Marriage Act. According to her, the provisions of Section 21 (A)

of the Hindu Marriage Act contemplates that both the proceedings be heard together i.e. one initiated by the husband and the other by wife for the same purpose with the proceedings, which are initiated by the husband since same are prior in point of time.

4. In addition, a submission is made that the proceedings initiated by the husband against the wife is proceeded without written statement and are fixed for evidence of the non-applicant husband, as such this Court should be slow in interfering under Section 24 of the Code of Civil Procedure.

5. Having considered rival submissions, it is not in dispute that non-applicant husband is residing at Nagpur and for that purpose, he is required to visit Nagpur everyday. The applicant-wife is residing at Nagpur, as is claimed to be along with her parents. Son Kaustubh, aged about three years is in the custody of the applicant-wife.

6. In the aforesaid background, the objection relying upon the provisions of Section 21 (A) of the Hindu Marriage Act raised by non-applicant husband is over ruled. As such, considering the hardship, as will be faced by the applicant-wife and her convenience, the application for transfer of proceedings being Hindu Marriage Petition No.298/2016, filed by the non-applicant husband stands allowed in terms of prayer clause (i).

(N.W. SAMBRE, J.)