

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

MISC. CIVIL APPLICATION NO.354 OF 2018

APPLICANT :-

Jayashree Rajendra Sawarkar
Aged about 30 yrs, Occup. Nil
R/o Behind Prabhudayal Talkies, Morshi,
Tah.Morshi, Dist.Amravati.

...VERSUS...

RESPONDENT :-

Rajendra Tulsiramji Sawarkar
Aged about 38 years, Occup. Service.
R/o Veternary Hospital, New Koradi,
Tq.Kamptee, district Nagpur 441 111

Mr. B.R.Deshmukh counsel for the applicant.
Mr. P.S.Patil, counsel for the respondent.

CORAM : M. S. KARNIK, J.

DATE : 20.06.2018.

ORDER:

1. Rule. Rule returnable forthwith.

2. This is an application filed by the applicant-wife for transfer of the Hindu Marriage Petition No. 230 of 2017 filed by the non-applicant pending on the file of 4th Jt. Civil Judge Senior Division,

Nagpur to the Civil Judge Senior Division, Amravati. The marriage was solemnised on 24/02/2008. The couple developed differences as a result of which the applicant lodged the complaint with the Police Station Koradi on 10.7.2016. The Non applicant filed Hindu Marriage Petition No.230 of 2017 under Section 13(1)(i-a) of the Hindu Marriage Act for divorce. Thereafter, the wife filed the petition under Section 12 of the Protection of Women from Domestic Violence Act before the Judicial Magistrate First Class, Morshi on 26.10.2017.

3. The learned counsel for the applicant-wife submitted that the applicant is presently residing at Morshi which is in Amravati District. He submits that Morshi is at a distance of 52 km from Amravati. The distance between Morshi to Nagpur is 147 km and it takes around 3 hours to travel to Nagpur by bus. He however, submits that the applicant has to look after her son who is 8 years old. The applicant is residing with her parents and therefore it is very inconvenient for her to attend the proceedings at Nagpur. She therefore, seeks transfer of the proceedings.

4. The learned counsel for the non applicant on the other hand points out that there is ample transport available to the applicant to travel from Morshi to Nagpur. In his submission the non applicant is drawing salary of Rs.25,000/- per month in which he has to maintain his parents. It is further pointed out that he has already filed affidavit of evidence and now the applicant can conveniently cross examine the non applicant.

5. Taking an overall view of the matter and having regard to the fact that the non applicant has filed the proceedings for divorce at Nagpur, the convenience of the applicant/wife will have to be looked into. The applicant and her son are dependent on the mercy of her parents for their livelihood. The proceedings under Section 12 of the Protection of Women from Domestic Violence Act filed by the applicant/wife are pending before the Court at Morshi. Taking an overall view of the matter, it would be in the interest of justice to transfer the proceedings from Nagpur to Amravati. The application is allowed in terms of prayer clause (i) with no order as to costs.

6. It is made clear that the applicant will not seek unnecessary adjournments in the Court at Amravati. The learned Civil Judge Senior Division, Amravati, is requested to hear the matter expeditiously.

7. Rule made absolute in the aforesaid terms. No costs.

JUDGE

Kavita.