

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

MISC. CIVIL APPLICATION NO.800 OF 2017

APPLICANT :- Purushottam Balkrushna Dakhore,
Aged about 31 yrs,
R/o Bhiwapur Ward, Near Hanuman Temple
Chandrapur, tq. And Dist.Chandrapur.,

...VERSUS...

RESPONDENT :- Savita Purushottam Dakhore
Aged about 26 years,
R/o Pimpalgaon, Post Ukni,
Tq.Wani,Dist. Yavatmal.

Mr.S.M.Vaishnav, counsel for the applicant.
Mr.Rajnish Vyas, counsel for the respondent.

CORAM : M. S. KARNIK, J.

DATE : 15.06.2018.

O R D E R:

1. Rule. Rule returnable forthwith.

2. This is an application filed by the petitioner-husband for transfer of the proceedings filed by the non applicant- wife

bearing Hindu Marriage Petition No.28 of 2017 pending before the Court of Civil Judge, Senior Division, Pandharkawda to Court of Civil Judge, Senior Division, Chandrapur. The petitioner/husband contends that the marriage took place on 5.11.2009. The wife refused cohabitation.

3. Learned counsel for the applicant-husband submits that he is residing at Chandrapur. It is his contention that the non applicant- wife is residing at Pimplagaon. According to him Pimpalgaon to Chandrapur is at a distance of 38 km., whereas the Hindu Marriage Petition has been instituted by wife at Pandharkawda, which is at a distance of 72 km from the place of her residence. It is contended by the learned counsel for the petitioner/husband that the proceedings have been instituted at Pandharkawda only to inconvenience the applicant so that he has to travel a distance of 102 kms. He submits that respondent/wife attended the proceedings filed by him before the Court at Chandrapur. The Petition was for Restitution of Conjugal Rights. Though the petition for Restitution of Conjugal Rights was decided against the petitioner, he has now filed the appeal against the decision which is pending before the District Judge, at

Chandrapur. The respondent/wife has been regularly attending the said proceedings at Chandrapur. He has also submitted that there is no difficulty for respondent/wife to attend the Court at Chandrapur.

4. Learned Counsel for the respondent/wife on the other hand opposes the petition. He invited my attention to the affidavit in reply filed by the respondent/wife and contended that the proceedings are filed at Pandharkawda only because it is most convenient for her as her relatives are staying at Pandharkawda. He further submits that the proceedings at Chandrapur instituted by the husband resulted in dismissal on account of non appearance of the husband/petitioner in the petition filed for Restitution of Conjugal Rights. According to him, the proceedings at Chandrapur are instituted only with a view to harass respondent/wife. In any case, he submits that it is the choice of the wife to institute the proceedings where she finds it to be convenient. She finds it convenient to travel to Pandharkawda as all her relatives are staying there.

5. Learned counsel for the husband relied upon the decision of the Apex Court in the case of Anindita Das.Vrs. Srijit Das reported in (2006)9 Supreme court Cases 197 to contend that in the matrimonial dispute the convenience of the parties is to be seen. He also relied upon decision of Apex Court in the case of Krishna Veni Nagam Vrs. Harish Nagam reported in (2017)4 Supreme court Cases 150. I find that the decision of Apex Court do not have any application to the facts of the present case.

6. In the present case, the respondent/wife, has instituted the proceedings at Pandharkawda as she finds it convenient to travel to Pandharkawda as all her relatives are staying there. The distance between Pandharkawda to Chandrapur is not much. Merely because the petitioner/husband has instituted proceedings at Chandrapur which the respondent/wife is regularly attending is no reason for the petitioner/husband to seek a transfer of the proceedings instituted by the respondent/wife at Pandharkawda. The respondent is homemaker and she resides at her parental house with her mother, father and brother.

7. In this view of the matter, I do not see any reason to entertain the present application. The application is dismissed.

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

JUDGE

Kavita.