

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

MISC. CIVIL APPLICATION NO.1097 OF 2017

APPLICANT :- Madhuri Bandu Lohare
Aged about 34 yrs, Occup. Household
R/o C/o Vasantrao Balkrishna Gawande
Sureshnagar, Post-Moha, Laxminagar,
Dehankar Layout,
Near Water Can House, Dhamangaon
Road, Yavatmal, Tahsil and dist.Yavatmal

...VERSUS...

NON-APPLICANT :- Bandu Budhaji Lohare
Aged about 42 years, Occup. Service.
R/O Plot No.33, Near Sai Mandir,
Narayan
City, Umred, District Nagpur 441 203.

Mr.G.K.Bhusari, counsel for the applicant.
Mr.Lubesh Meshram, counsel for the respondent.

CORAM : M. S. KARNIK, J.

DATE : 03.07.2018.

ORDER:

1. **Rule.** Rule made returnable forthwith. The miscellaneous civil application is heard finally with the consent of the learned counsel for the parties.

2. This is an application for transfer of the proceedings which have been filed by the non-applicant husband before the Court of Civil Judge Senior Division, Nagpur to the Family Court at Yavatmal. The marriage was solemnised between the parties on 05.05.2002. The non applicant is working as a teacher in Zilla Parishad School and it is averred by the applicant that he is earning a salary of Rs. 45,000/- to Rs.50,000/- per month. The parties lived together for long number of years. Two children are born out of the wedlock, one is aged 11 years and other is aged 8 years. Previously they were studying in the school at Nagpur. After the applicant left the matrimonial home on 29.5.2016, both the sons are now residing and taking education at Yavatmal. The applicant is housewife and has no source of income. The applicant is residing with her parents at Yavatmal. The distance between Yavatmal and Nagpur is almost 150 km and it is contended that the applicant has to face lot of hardship and inconvenience if she has to attend the proceedings at Nagpur.

3. It is also pointed out that after filing of the proceedings for divorce by the non-applicant/husband at Nagpur the applicant has filed two proceedings, one being criminal complaint under Section 498-A of Indian Penal Code and one being the proceedings under the Domestic Violence Act which are pending before the Competent Court at Yavatmal. It is submitted by the learned counsel for the applicant that she has to look after her two children. Except her there is nobody to look after her children as even her parents are now old.

4. The learned counsel for the non applicant on the other hand pointed out that he is willing to bear the expenses for the travelling and other expenses if the applicant attends the proceedings at Nagpur. It is contended by the non applicant that he is residing at Nagpur along with his parents and therefore it is not at all convenient for him to attend the court at Yavatmal. He submitted that looking at the nature of

his job, it will be difficult for him to travel to Yavatmal. He further submitted that only with a view to harass the non applicant, the applicant has filed proceeding at Yavatmal. He submits that there are adequate transport facilities available and now it is very convenient to travel between Nagpur and Yavatmal

5. Having considering the arguments made by the learned counsel for the parties, I am of the opinion that this is a fit case to transfer the proceedings from Nagpur to Yavatmal . The applicant has to take care of her two children who are aged 8 and 11 years and now are staying with the applicant since the date when the applicant left the matrimonial home. Nothing is being paid by the non-applicant towards the maintenance of the applicant and for her children. The applicant is residing alongiwth with her parents at Yavatmal. Looking at the totality of the circumstances coupled with the fact that Yavatmal is at a distance of 150 km from Nagpur, it would not only be

inconvenient for the applicant to attend the court proceedings at Nagpur but she will have to face a lot of hardship. In this view of the matter, the application deserves to be allowed in terms of prayer clause 'a'.

6. Learned counsel for the non applicant requests that proceedings be expedited. Having regard to the peculiar facts of the case the trial court is requested to try divorce petition as expeditiously as possible preferably within a period of 12 months from today.

JUDGE

Kavita