

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

MISC. CIVIL APPLICATION (MCA) NO. 68 OF 2019

(Vaishali w/o Bharat Narnaware vs. Bharat s/o Govindrao Narnaware)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri R.P. Masurkar, Advocate for the applicant.
Shri O.R. Deshpande, Advocate for the non-applicant.

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CORAM : PUSHPA V. GANEDIWALA, J.
NOVEMBER 13, 2019.

Heard the learned counsel for the parties.

This is an application under Section 24 of the Civil Procedure Code, 1908, filed by the applicant - wife against the non-applicant – husband, seeking transfer of proceeding bearing No. A-2696 of 2018, which is pending before the Family Court, Bandra, Mumbai to Family Court, Nagpur.

It is submitted that the applicant was forced to leave matrimonial house on 18.09.2014 and since then she is residing in Nagpur and working in Yavatmal. She has filed one proceeding under Section 125 of the Code of Criminal Procedure on 29.03.2017 for maintenance and as a counter blast, non-applicant has filed divorce petition at Family Court, Bandra, Mumbai.

The learned counsel appearing on behalf of the non-applicant objected the application mainly

on the ground that the non-applicant is serving as a Loco Pilot in Western Railway, Mumbai. However, the learned counsel for the non-applicant could not point out any hardship which would be suffered by the non-applicant – husband if the petition is transferred to Nagpur. Furthermore, undisputedly, the non-applicant – husband is attending the proceeding under Section 125 of the Cr.P.C. for maintenance, which is pending in the Court at Nagpur.

Furthermore, it is well settled by the judgments of the Hon'ble Apex Court that the convenience of the wife is to be seen. The distance between Nagpur and Mumbai is admittedly more than 800 kms..

In this view of the matter, I found merit in the application and the same is, therefore, allowed in terms of prayer clause (ii) in the application and Petition No. 2696 of 2018 and application for maintenance filed under Section 125 of the Code of Criminal Procedure bearing Petition No. E-171 of 2017 are directed to be heard by the same Court. Misc. Civil Application is disposed of accordingly. However, there shall be no order as to costs.

JUDGE

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