

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

MISC. CIVIL APPLICATION NO. 853 OF 2019.

(Leena w/o Nilesh Shelke, Nagpur Vs. Dr. Nilesh s/o Chhaganrao Shelke, Buldhana.)

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

Court's or Judge's orders.

Ms.M.Tekade, Advocate for the applicant.
None for the non-applicant.

CORAM : PUSHPA V. GANEDIWALA, J.
NOVEMBER 15, 2019.

Heard.

This is an application filed by the applicant/wife under Section 24 of the Code of Civil Procedure praying for transfer of H.M.P. No.A-263/2018 pending on the file of the Joint Civil Judge, Senior Division, Jalna to the Family Court, Nagpur.

It is stated that the marriage between the parties was solemnized on 22/02/2016 at Nagpur. It is further stated that both the parties lastly resided together at Deulgaon Raja, District Buldhana. On 04/09/2016, due to their matrimonial dispute, the applicant started living separately with her parents.

It is further stated that the applicant has filed a divorce petition under Section 13(1)(i-a) of the Hindu Marriage Act, 1955 before the Family Court, Nagpur bearing H.M.P.No.190/2019.

It is further stated that the non-applicant has also filed a petition under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights before the Court at Jalna bearing H.M.P.No.263/2018.

It is further stated that the applicant has no source of income and is residing at the mercy of her parents. That the applicant is finding it difficult to reach to the Court at Jalna from Nagpur on each and every date by travelling distance of around 400 kilometers. On the contrary, the non-applicant is attending the proceedings which have been initiated by the applicant in the Court at Nagpur and thus prayed for allowing the application.

I have considered the submissions put forth on behalf of the learned counsel for the applicant and perused the record.

The law by now stands well settled by a catena of decisions of the Hon'ble Supreme Court that in transfer petitions filed under Section 24 of the Code of Civil Procedure by the wife, the convenience of wife has to be considered.

Considering the aforesaid facts and circumstances of the case, this Court is of the opinion that a strong case for allowing the instant application is made out and it is accordingly allowed.

H.M.P. No. A-263/2018 pending on the file of the Joint Civil Judge, Senior Division, Jalna is transferred to the Family Court, Nagpur to be heard along with H.M.P.No.190/2019 which is pending before the Family Court, Nagpur.

The Civil Application accordingly stands disposed of.

JUDGE

Sumit