

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

MISC. CIVIL APPLICATION (MCA) NO.1014 OF 2019.

(Sunita Kawdu Durdakar, Chandrapur Vs. Kawdu Sitaram Durdakar, Yavatmal)

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

Court's or Judge's orders.

Shir D.M.Khandait, Advocate for the applicant.
Shri A.A.Dhawas, Advocate for the non-applicant.

CORAM : PUSHPA V. GANEDIWALA, J.
NOVEMBER 20, 2019.

Heard.

This is an application filed by the applicant/wife under Section 24 (1)(b)(ii) of the Code of Civil Procedure, 1908 praying for transfer of H.M.P. No.38/2018 pending on the file of the Civil Judge, Senior Division, Pandharkawda, District Yavatmal to the Civil Judge, Senior Division, Chandrapur.

It is stated that the marriage between the parties was solemnized on 05/05/2006. After marriage, the applicant started residing at her matrimonial house at Pandharkawda, District Yavatmal. Out of this wedlock, they have two daughters, by name Prachi and Riya, aged about 11 years and 6 years respectively.

It is stated that after marriage, the non-applicant used to give ill treatment to the applicant.

That on 06/05/2013, the applicant was warned by the non-applicant under the influence of liquor to bring Rs.50,000/- from her father and subsequently, the applicant was kicked out of the house.

It is further stated that the applicant has filed a petition bearing No.68/2018 under Sections 12, 18, 20 and 22 of the Protection of Women from Domestic Violence, Act, 2005 before the Court of the Chief Judicial Magistrate, Chandrapur, which is pending consideration.

It is stated that to counter the petition filed by the applicant, the non-applicant has also filed a petition bearing H.M.P. No.38/2018 under Section 13 of the Hindu Marriage Act, 1955 before the Civil Judge, Senior Division, Pandharkawda, District Yavatmal. It is this petition which is prayed to be transferred in the present application.

It is further stated that the applicant is finding it difficult to reach to the Court at Pandharkawda, District Yavatmal on each and every date by travelling distance of around 120 kilometers, she being a lady having two minor daughters, 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 in terms of prayer clause (1).

The Civil Application accordingly stands disposed of.

JUDGE