

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

MISCELLANEOUS CIVIL APPLICATION (TR) NO. 1035 OF 2019

[Sou. Monika w/o Tushar Jaiswal Vs. Shri Tushar s/o Anil Jaiswal]

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri N. M. Jibhakate, Advocate for the applicant
Shri S. S. Dewani, Advocate for the non-applicant

CORAM : M. G. GIRATKAR, J.

DATE : 02/03/2020

Heard.

2. The applicant-wife has filed proceeding under Sections 18 and 20 of the Hindu Adoption and Maintenance Act, 1956 and Section 38 of the Specific Relief Act, 1963 before Civil Judge Senior Division, Pusad.

3. The non-applicant-husband has filed proceeding for divorce under Section 13 (1) (ia) (ib) of Hindu Marriage Act, 1955 before the Family Court at Family Court, Nagpur.

4. Learned Advocate Shri Jibhakate for the applicant has submitted that marriage between applicant and non-applicant was solemnized at Pusad. They lastly resided at Wani. The non-applicant is residing at Wani, District – Yavatmal. He intentionally filed proceeding at Nagpur only to harass his wife.

5. Learned Advocate Shri Dewani for the non-applicant has pointed out judgment of the Hon'ble

Apex Court in the case of **Anindita Das Vs. Srijit Das** reported in **(2006) 9 SCC 197**. The Hon'ble Apex Court has held that:

“Leniency to the wife cannot be granted only on the ground of ill-health etc.”

Facts in the cited decision, is very much different.

6. It is not disputed that the non-applicant is residing at Wani, District - Yavatmal. As per the submission of learned Advocate for the applicant, they were residing at Wani, District – Yavatmal. There is no dispute that marriage was solemnized at Pusad. It appears that non-applicant has intentionally filed proceeding before Family Court, Nagpur. Proceeding under Section 13 (1) (ia) (ib) of Hindu Marriage Act, 1955 for divorce should have been filed before Civil Judge Senior Division, Kelapur or at Pusad, District – Yavatmal.

7. In that view of the matter, application is **allowed**. H.M.P. No.A-489/2019 pending before Family Court No.4, Nagpur is hereby transferred to the Civil Judge Senior Division, Pusad, District – Yavatmal.

8. Accordingly, application is disposed of.

JUDGE