

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

940 MISC.CIVIL APPLICATION NO.31 OF 2021

GAYATRI RAHUL BHUSARI
VERSUS
RAHUL RAMDAS BHUSARI

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Mr. Rupesh Jaiswal, Advocate for the applicant.
Mr. R.V. Gore, Advocate for the respondent.

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CORAM : **AVINASH G. GHAROTE, J.**

DATE : 05-08-2021.

ORDER :

1. Heard Mr. Jaiswal, learned Counsel for the applicant and Mr. Gore, learned Counsel for the respondent sole.

2. This transfer application has been filed by the wife, who is residing at Nagpur, in respect of the Hindu Marriage Petition filed by the husband before the Civil Judge, Senior Division at Aurangabad under section 12 of the Hindu Marriage Act for declaring their marriage as null and void. The proceedings under the Domestic Violence Act and Section 498-A of the Indian Penal Code have been instituted by the wife at Nagpur. Considering the distance between Nagpur and Aurangabad, it is submitted that it is difficult for the wife to travel to Aurangabad, and therefore, the matter be transferred to Nagpur.

3. The contention of Mr. Gore, learned Counsel for the respondent is that the applicant is guilty of suppression of the fact,

that she is gainfully working and regarding her address, which disentitles her, from any relief at the hands of this Court. For this purpose he places reliance upon the documents filed alongwith his reply, which show that the applicant, is a Dental Surgeon, who is having a Clinic at Nagpur. Learned Counsel Mr. Gore places reliance upon the judgment in the case of ***Pooja Dinesh Dahale vs Dinesh Subhash Dahale, MCA No. 50/2016*** decided on 05.07.2016. Learned Counsel Mr. Gore further submits, that the applicant, till 2019, was travelling to Aurangabad to attend the proceedings instituted by the husband and therefore, her contention, that she is unable to travel alone, is incorrect. On these two grounds, learned counsel for the non applicant submits that the application be rejected.

4. It is settled position of law from a catena of decisions of the Hon'ble Apex Court as well as this Court, that the convenience of the wife, has to be considered, while deciding an application for transfer of the proceedings. In this case, it is an admitted position, that the proceedings have been instituted by the wife at Nagpur, in which non-applicant will be required to appear. It would be in the interest of both the parties, if the matters are at one place, and are decided by one Court.

5. The contention, that the applicant, has been travelling from earlier point of time and can do so again, is without any substance, considering that the non-applicant husband can also do so and would be required to do so, for appearing in the proceedings

instituted by the wife at Nagpur. The reliance placed upon **Pooja Dinesh Dahale** (supra) by the learned Counsel for the non-applicant, regarding the suppression of the occupation and the address, has to be considered in the light of the HMP No. 169/2019 filed by the husband, in which the residence of the applicant, has been given at Nagpur and so also the occupation has been shown as a Doctor, in view of which, the judgment in **Pooja Dinesh Dahale** (supra), is of no assistance to the non applicant.

6. In view of what has been held above, the proceedings filed by the husband bearing HMP No. 169/2019, pending on the file of Civil Judge, Senior Division at Aurangabad are hereby transferred to the file of the Family Court, Nagpur. The parties are directed to appear before the Family Court at Nagpur on 17th August 2021 before which the Civil Judge, Senior Division, Aurangabad is requested to transmit the file of the above proceedings.

7. The application is disposed of accordingly.

(AVINASH G. GHAROTE, J.)

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