

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

MISC. CIVIL APPLICATION NO. 365 OF 2021

Sau. Preeti Gajanan Jain

Vs.

Mr. Gajanan Dilip Jain

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

Shri Akash P. Joshi, Advocate for applicant.
Shri Amol M. Jaltare, Advocate for non-applicant.

CORAM : PUSHPA V. GANEDIWALA, J.

DATE : 23rd AUGUST, 2021.

Heard.

2. By way of this application, the applicant-wife is seeking transfer of proceedings i.e. Hindu Marriage Petition No.A-1502 of 2017, filed by the non applicant/husband, which is pending on the file of Family Court No.5, Pune to the Court of Civil Judge, Senior Division, Chandrapur.

3. It is stated that the marriage between the applicant and non-applicant was solemnized on 14.05.2015 and out of the said wedlock they are blessed with a son by name Viraj. It is stated that on account of marital discord between the parties, the applicant came to the house of her parents along with her son Viraj and staying there at their mercy.

4. Applicant is seeking transfer on the ground that the applicant is finding difficulty to attend each and every date at Family Court, Pune since distance between the two

places is more than 850 Kms and there is no direct connectivity between Saoli and Pune. It takes 18 hours journey from Saoli to Pune. It is further stated that the Applicant has no independent source of income and she is depending on her father for her livelihood. The applicant has to look after her minor son.

5. In response, non-applicant/husband in his reply, resisted the application and submitted that the applicant does not want to reside with the non-applicant. Non-applicant also stated about regular attendance of applicant/wife in the aforesaid proceedings. The non-applicant also placed on record the order-sheet of the proceedings. Shri Amol Jaltare, learned counsel appearing for non-applicant/husband submitted that there is no point in transferring the petition when the matter is already fixed for judgment.

6. I considered the rival submissions and perused the record. At the outset a perusal of Roznama would indicate that the applicant/wife was not regular in attending the proceedings. Once the proceedings was proceeded further by passing 'No W.S.' order against her. However, thereafter it came to be recalled and the applicant was permitted to place on record her written statement. Thereafter, the matter could not be proceeded due to lockdown.

7. On 20.01.2021, considering the absence of applicant on last date 'No Cross' order came to be passed

against the applicant/wife. On the next date i.e. on 12.02.2021, due to her absence, evidence for applicant/wife's side was closed and the date was fixed for final arguments.

8. Aforesaid facts clearly establish that the applicant was finding it difficult to attend the proceeding and hence the Court proceeded further in her absence. The non-applicant/husband has filed a case for divorce which would have serious consequences on marital life of the applicant. The applicant/wife would be deprived of establishing her case only because she is not able to attend the proceedings at Pune. Justice would be done only if both the parties are heard properly.

9. In the aforesaid background, the applicant has made out case for transfer. I am therefore inclined to allow the application. Accordingly, the application is allowed in terms of prayer clause (i), which is reproduced below:

“i) transfer H.M.P (Petition – A) No.1502/2017 – (Gajanan Dilip Jain Versus Sau. Preeti Gajanan Jain) pending before the Family Court No.5, Pune to the Court of Civil Judge Senior Division, Chandrapur, in the interest of justice;”

10. The application stands disposed of.

JUDGE

Wagh