

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

MISCELLANEOUS CIVIL APPLICATION NO. 270 OF 2020

Dr. Rakhi W/o Jai Sharma @ Payasi (Dr. Rakhi D/o Dr. Rajendra Prasad Trivedi),
aged about 33 years, Occupation Doctor,
R/o. C/o. Dr. Rajendra Prasad Trivedi,
Post & Tah. Selu (Ghord), District Wardha } .. **APPLICANT**

Versus

Dr. Jay S/o Vaishnudayal Sharma @ Payasi, aged about 38 years, Occ. Doctor,
R/o Ward No.20, Bhatera, in front of Sent Marry School, Balaghat, Tah. & Distt. Balaghat (Madhya Pradesh) } .. **RESPONDENT**

Smt. Manju M. Ghatode, Advocate for applicant

CORAM: V.M. DESHPANDE, J.

DATE : 27/10/2021

ORAL JUDGMENT :

This application is filed under Section 24 of the Code of Civil Procedure to transfer Petition No. A-1382/2018 filed by the non-applicant before the Principal Judge, Family Court, Nagpur for its transfer to the learned Civil Judge (Senior Division), Wardha.

2. Though the notices which were issued by this Court were received and the non-applicant is served, the non-applicant has not put appearance in this application. On two occasions i.e on 22/06/2021 and 04/08/2021, this Court granted time to the non-applicant to submit his case before the Court. In spite of the time granted, the non-applicant chose not to appear and contest this application.

3. Rule. Rule is made returnable forthwith.

4. Heard Smt. Manju Ghatole, learned counsel for the applicant. She pointed out that marriage between the applicant and non-applicant was solemnized on 04/12/2014 and the couple was blessed with one female child by name Aradhya. It is submitted by the applicant on affidavit that though for initial period she was well treated subsequently mental treatment was there at the hands of the non-applicant. Resultantly, the applicant was required to leave the company and she started residing at her parental house since 2018. It is submitted that the non-applicant did not make any attempt to reconcile or even

to meet minor daughter. However, she received a notice of the petition from the Family Court, Nagpur in respect of the petition filed under Section 10 read with Section 13(1) under the Hindu Marriage Act.

5. It is the contention on the part of the applicant that though the distance between Wardha and Nagpur is less than 100 Km it will be cumbersome for her to attend each and every date of the proceedings at Nagpur specially when she is residing with her parents along with her toddler. Since the statement of facts made in this application remained to be controverted by the non-applicant in spite of sufficient opportunity given to him, I am of the view that even if this application is allowed, no prejudice will be caused to the non-applicant. Resultantly, I pass the following order :

- i. The application is allowed.
- ii. Petition No. A-1382/2018, pending on the file of Principal Judge, Family Court at Nagpur is hereby transferred from the said Court to the Court of Civil Judge Senior Division, Wardha, to decide the same in accordance with law.

iii. The learned Civil Judge, Senior Division, Wardha is directed to issue notice to the non-applicant (original petitioner) after the receipt of the record at the said Court and for his appearance.

Rule is made absolute in above terms.

No costs.

JUDGE

MP Deshpande