

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

MISC. CIVIL APPLICATION NO. 271 OF 2021.

(Aishwariya w/o Nikhilesh Jaiswal Vs. Nikhilesh s/o Anandraj Jaiswal (Motariya))

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

Court's or Judge's orders.

Shri D.P. Bhongade, Advocate for the applicant.
Shri R.L. Alone, Advocate for the non-applicant.

CORAM : PUSHPA V. GANEDIWALA, J.
AUGUST 18, 2021.

Heard.

2. This is an application filed by the applicant/wife under Section 24 of the Code of Civil Procedure praying for transfer of Petition No.A-292/2021 pending on the file of the Family Court No.3, Nagpur to the Court of the Civil Judge, Senior Division, Akola.

3. It is stated that the marriage between the parties was solemnized on 01/07/2017 at Murtizapur, District Akola as per Hindu rites and customs. Due to the marital discord between the parties, they started residing separately.

4. With regard to the source of income, it is stated that the applicant has no source of income and she is residing at her parents' house at their mercy while the non-applicant is running a Beer Bar.

5. The applicant has stated that she has already filed proceedings for maintenance before a Court in Akola and in order to harass the applicant, the aforesaid proceeding for restitution of conjugal rights came to be filed by the non-applicant/husband. She has further stated that she is finding it difficult to reach the Court at Nagpur from Akola on each and every date by traveling distance of around 255 kilometers and it takes about 5 hours of travel time.

6. It is also submitted that the non-applicant is already attending the proceedings for maintenance which is pending in the Court at Akola and, therefore, it would be convenient for the non-applicant to attend both the proceedings at Akola.

7. Learned counsel for the non-applicant/husband though opposed the relief as sought in the application vide placing on record affidavit in reply of the non-applicant/husband, however, could not convince this Court that the non-applicant/husband would face greater hardships than the applicant/wife, is being faced in attending the aforesaid proceedings at Akola.

8. Considering the aforesaid submissions on behalf of the applicant and the hardships which is being faced by the applicant as demonstrated above, in the opinion of this Court, the convenience of the

wife is to be given preference than the convenience to the husband.

9. The Hon'ble Supreme Court in the case of Mona Aresh Goel Vs. Aresh Satya Goel reported in AIR 2000 SC 3512 allowed the transfer petition filed by the wife considering the hardships she was facing in attending the court's proceedings.

10. In this view of the matter, this Court is of the opinion that a case for transfer of the petition is made out. The application is accordingly allowed. The petition No.A-292/2021 which is pending on the file of the Family Court No.3, Nagpur is withdrawn and transferred to the Court of Civil Judge, Senior Division, Akola.

11. The Civil Application is accordingly stands disposed of.

JUDGE