

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

MISC. CIVIL APPLICATION NO. 281 OF 2021

(Mrs. Parvinderkaur w/o Jasvindersingh Ghotra Vs. Jasvindersingh s/o Anupsingh Ghotra)

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

Court's or Judge's Order

Shri A.K. Neware, Advocate for the applicant.
Shri S.D. Abhyankar, Advocate for the non-applicant.

CORAM:- PUSHPA V. GANEDIWALA, J.
DATED :- OCTOBER 08, 2021.

Heard.

2. This is an application filed under Section 24 of the Code of Civil Procedure, by the applicant/wife, seeking transfer of H.M.P No.41/2021, which is pending on the file of Civil Judge, Senior Division, Chandrapur to the Family Court, Nagpur.

3. It is stated that the marriage between the parties was solemnized on 17/02/1984 as per the Hindu rites and customs.

4. They have four children out of the said wedlock and now all are major.

5. The applicant/wife states that non-applicant/husband was in the habit of abusing and beating her on trivial issues. He had also developed the habit of leaving the applicant/wife and the children at their own mercy every now and then.

6. It is further stated that on 23/03/2017, he finally left the matrimonial house and did not return. She has also stated about her medical ailments regarding diabetes, blood pressure and even she has suffered from Covid-19 in April, 2021. The applicant/wife further states that the non-applicant/husband has filed a divorce petition vide H.M.P No.41/2021 before the Civil Judge, Senior Division, Chandrapur and she is finding it difficult to attend the said proceedings.

7. In paragraph No.4 of her application, she states that the non-applicant/husband neither came back to Nagpur nor took care to give maintenance to the applicant/wife for herself and four children. She survives somehow and completed the education of the children without any help of the non-applicant/husband.

8. She states that due to her age related problem, she is finding it difficult to attend divorce proceedings at Chandrapur and, therefore, she is seeking transfer of the said proceedings.

9. The non-applicant/husband in response, filed his reply and denied the allegations with regard to mental and physical harassment. He resisted the petition on the ground of his medical conditions. He states that he was under constant mental stress due to unnecessary quarrel by the applicant/wife. He is suffering from various ailments and recently, he was hospitalized due to his high sugar and blood pressure. He states that he would be unable to move out for attending the case at Nagpur.

10. Learned counsel appearing for both the parties reiterated the pleadings of the parties in their submissions.

11. I have considered the submissions made on behalf of both the sides.

12. At the outset, both the parties asserting their inconveniences to attend the proceedings stating their medical problems like blood sugar, blood pressure etc.

13. Presently, the non-applicant/husband is staying at Chandrapur. The medical papers which the non-applicant/husband filed along with the divorce petition indicates that he is taking treatment from the doctors at Nagpur. The latest medical report is of 29/07/2020. As rightly submitted by Shri Neware, learned counsel for the applicant/wife that the medical papers indicates that the non-applicant/husband can very well travel to Nagpur.

14. Considering the facts of the case, in the opinion of this Court, the balance of hardships is tilting more in favour of the applicant/wife. In this context, 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.

15. As both the applicant and non-applicant are asserting their inability to attend the proceedings at other's place due to their medical conditions and considering the fact that even otherwise, the

non-applicant/husband is residing at Chandrapur and taking treatment from doctors at Nagpur which indicates that he is able to move to Nagpur, therefore, I am inclined to allow the application and the same is accordingly allowed.

16. The H.M.P No.41/2021 pending on the file of Civil Judge, Senior Division, Chandrapur is withdrawn and transferred to the file of Family Court, Nagpur.

17. The Civil Application is accordingly stands disposed of.

18. The stay operating to the further proceedings of the H.M.P No.41/2021 stands vacated.

JUDGE

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