

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

MISC.CIVIL APPLICATION (TRANSFER) NO.328 OF 2020

Sapna w/o Pankaj Ingle,
Aged about 26 years, occupation:- nil,
R/o c/o Raibole, plot No.79,
Shree Mahalaxmi Nagar,
New Narsala Road, Nagpur-34. **Applicant.**

:: VERSUS ::

Pankaj s/o Pritam Ingle,
Aged about 32 years, occupation:- service,
R/o Asole layout, Arvi,
Taluka Arvi, district Wardha. **Non-applicant.**

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Shri S.Jain, Advocate h/f Shri S.S.Dhengale, Counsel for the Applicant.

Shri C.A.Babrekar, Counsel for the Non-applicant.

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CORAM : **V.M.DESHPANDE, J.**
DATE : **OCTOBER 20, 2021**

ORAL JUDGMENT

1. Heard Advocate Shri S.Jain h/f learned counsel Shri S.S.Dhengale for the applicant and learned counsel Shri C.A.Babrekar for the non-applicant.

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2. **Rule.** Rule is made returnable forthwith. Heard finally by consent of learned counsel for parties.

3. This is an application under Section 24 of the Code of Civil Procedure for transfer of divorce proceedings filed by the non-applicant. The applicant prays that divorce proceedings filed on behalf of the non-applicant, which is registered as Hindu Marriage Petition No.122/2020, pending in the Court of learned Civil Judge Senior Division, Wardha, be transferred to the Court of learned Judge, Family Court at Nagpur.

4. On 29.9.2020, Notice to the non-applicant was issued. In pursuance to the said Notice, learned counsel Shri C.A.Babrekar appeared for the non-applicant. Needless to mention that while issuing the Notice, this Court (Coram : M.G.Giratkar, J.) stayed further progress of Hindu Marriage Petition No.122/2020.

5. Learned counsel for the non-applicant vehemently opposes transfer of Hindu Marriage Petition No.122/2020 pending in the Court of learned Civil Judge Senior Division, Wardha to the

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Court of learned Judge, Family Court at Nagpur.

6. There is no dispute that marriage between the applicant and the non-applicant was solemnized on 26.5.2019 at Dubey Nagar, Nagpur. It is also not in dispute that they are residing separately from 8.12.2019. It is also not in dispute that the applicant filed three proceedings against the non-applicant, they are (i) under provisions of the Protection of Women from Domestic Violence Act, 2005; (ii) under Section 9 of Restitution of Conjugal Rights of the Hindu Marriage Act, 1955, and (iii) under Section 125 of the Code of Criminal Procedure for maintenance.

7. Proceeding, filed under provisions of the Protection of Women from Domestic Violence Act, 2005, is registered as Misc.Application No.2138/2020 and is pending on the file of learned Civil Judge Senior Division at Nagpur. Proceeding, filed under Section 9 of Restitution of Conjugal Rights of the Hindu Marriage Act, 1955, is registered as Petition No.A/450/2020. Whereas, proceeding, filed under Section 125 of the Code of

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Criminal Procedure for maintenance, is registered as Petition No.E/111/2020. Said proceedings are still pending on the file of learned Judge, Family Court at Nagpur.

8. It is submission of learned counsel for the applicant that Notices in above said three proceedings are already issued and the non-applicant is served with Notices.

9. Be that as it may, the non-applicant filed a petition for divorce in the Court of learned Civil Judge Senior Division at Wardha against the applicant and the said is registered as Hindu Marriage Petition No.122/2020.

10. Learned counsel for the applicant, on instructions, submitted that the non-applicant is not paying any amount of maintenance as on today to the applicant who is required to stay at her parental house. It is not disputed that the non-applicant is working as Accountant in Panchayat Samiti at Ashti, district Wardha.

11. It is an admitted position that the applicant is not in

any gainful employment.

12. Looking to aspects that the non-applicant as on today is not paying any single naya paissa towards maintenance and he is working as an Accountant and the applicant is a jobless lady and is dependent on her parents and her three petitions one before learned Civil Judge Senior Division at Nagpur and two before learned Judge, Family Court at Nagpur are already pending in which the non-applicant is served with Notices and is represented by an Advocate, in my view, though there is serious objection for transfer of Hindu Marriage Petition No.122/2020 pending in the Court of learned Civil Judge Senior Division, Wardha to the Court of learned Judge, Family Court at Nagpur, the said objection is devoid of any substance. Hence, I pass following order:

ORDER

(1) The Misc.Civil Application (Transfer) No.328/2020 is hereby allowed.

(2) Hindu Marriage Petition No.122/2020 pending in the Court of

Judgment

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learned Civil Judge Senior Division, Wardha is hereby directed to be transferred to the Court of learned Judge, Family Court No.2 at Nagpur to decide the same in accordance with law.

Rule is made absolute in aforesaid terms. No costs.

JUDGE

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