

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

MISCELLANEOUS CIVIL APPLICATION NO. 383 OF 2021

Mrs. Sandhya W/o Badrinarayan Pawar,
Aged 47 years, Occupation – Housewife,
R/o Flat No. C-001, Udyan Complex,
Wardha Road, New Somalwada, Ujwal
Nagar, Nagpur – 440025, Tahsil & District
– NAGPUR (Maharashtra State) } .. **APPLICANT**

Versus

Mr. Badrinarayan Shankar Pawar s/o Late
Mr. Shankar Hari Pawar,
Aged 59 years, Occupation – Service,
Permanent resident of Flat D-3, Shriram
Sahaniwas Co-operative Housing Society,
Survey No. 73, Katraj, Pune - 411046 } .. **NON-APPLICANT**

Ms. Bhavika Hindustani, Adv. h/f Shri A.N. Ansari, Advocate for applicant

Ms. D.I. Charlewar, Advocate for the non-applicant

CORAM: V.M. DESHPANDE, J.

DATE : 18/11/2021

ORAL JUDGMENT :

Rule. Rule is made returnable forthwith. Taken up for final hearing by consent of the parties.

2. Heard Ms. B.R. Hindustani, learned counsel for the applicant and Ms. D.I. Charlewar, learned counsel for the non-applicant.

3. The present application is under Section 24 of the Code of Civil Procedure with a prayer to transfer the Hindu Marriage Petition No. A-1566/2021, which is pending in the Court of Family Court No.2, Pune, filed by the non-applicant for divorce. By the present application, the applicant, who is the wife of the non-applicant prayed that the said divorce petition be transferred to Family Court at Nagpur.

4. Notices were issued and the non-applicant appeared through his Advocate Ms. Charlewar. Record shows that the matter was referred for mediation. The Co-ordinator of Mediation Center, High Court, Nagpur had submitted his report dated 16/11/2021, which states that the matter is not settled. Be that as it may, Ms. Charlewar, learned counsel for the non-applicant invited my attention to the reply-affidavit filed by the non-applicant dated 15/10/2021, which is on affidavit. Paragraph 5 of the said affidavit-in-reply reads as under :

“5] That, the Non-applicant submits that even the Non-applicant moved an application before the learned Family Court No.2, Pune, on 8/10/2021 and requested the Court for permission to withdraw the aforesaid divorce petition, however the learned trial Court did not accept the said application on the ground that, the transfer petition is pending before this Hon’ble Court, wherein this Hon’ble Court has granted interim relief in the transfer petition.

That since the Non-applicant is withdrawing the divorce petition itself and therefore, nothing survives in this application and the same may be disposed of.

Hence, this affidavit.”

5. Perusal of the said reply would show that the non-applicant – husband has filed an application for withdrawal of the divorce petition in the Court of learned Family Court No.2, Pune. However, the said Court is not passing order because of the pendency of the present application.

6. In view of the aforesaid, Ms. Hindustani, learned counsel for the applicant submits that she wishes to withdraw the present application. Her statement is accepted. Resultantly, I pass the following order.

ORDER

i) The present application is disposed of as withdrawn.

ii) In view of the withdrawal of the transfer application, there will not be any impediment for the learned Judge of the Family Court before whom the non-applicant / husband filed application for withdrawal of the divorce petition and shall pass the order immediately.

7. With these observations, the application is disposed of as withdrawn. No costs.

JUDGE

MP Deshpande