

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

...

MISCELLANEOUS CIVIL APPLICATION (Tr) NO. 387/2020

Mrs. Aparna W/o Alok Bhadane
Aged about 33 years, occu: Nil
R/o 60, Pandit Malviya Nagar
Near Indraprastha Mall, Khamla
Nagpur, Tahsil and Dist.Nagpur
440025 (Maharashtra)

..APPLICANT

v e r s u s

Mr. Alok s/o Pradeep Bhadane
Aged about 34 years, occu; business
R/o 602, " Harshad Building"
Bhide Wadi Society, Abhiruchi Mall,
Wadgaon (BZ) Pune - 411 041
(Maharashtra State)

..RESPONDENT
(Non-Applicant)

.....
Mr. A.V. Khare, Advocate for the applicant
Mr. C.B. Barve, Advocate for Respondent
.....

CORAM: MRS.SWAPNA JOSHI, J.
DATED : 1st July, 2021

ORAL JUDGMENT:

1. **Rule.** Rule is made returnable forthwith. Heard finally, with the consent of learned Advocates appearing for respective parties.

2. By this Application, the applicant seeks transfer of Petition No.D/25/2020 for child custody, instituted by the respondent-non applicant, pending on the file of Family Court No.4, Pune to Family Court at Nagpur.

3. The marriage between the parties was solemnized on 6th June, 2015 at Nagpur, as per Hindu rites and customs. Few months after the marriage, the respondent-husband and his family started harassing the applicant. On 9th October 2019, the applicant came to Nagpur along with their five-year-old son and started staying at her parents' place. The applicant has filed proceedings before the Family Court at Nagpur seeking divorce. Learned Advocate for the applicant submitted that the respondent-husband attends those proceedings at Nagpur. He further submitted that to counterblast the divorce proceedings, the respondent-husband has filed petition for custody of their son before the Family Court at Pune. It is submitted that the applicant is having a small child, aged about 5 years and the distance between Pune and Nagpur is about 800 kms. and as such, it is very difficult for her to attend the proceedings every now and then at Pune since she is depending upon her parents, financially. It is requested that the proceedings be transferred to Nagpur.

4. The learned Advocate for the respondent-husband vehemently opposed the application.

5. It is well-settled by now that convenience of the wife is to be considered and, as such, it would be just and proper to transfer Petition No. D/125/2020 from Pune to Nagpur.

6. The Hon'ble Apex Court in the case of Sumita Singh vs. Kumar Sanjay and another, reported in AIR 2002 SC 396 has observed that the wife's convenience must be considered in matrimonial proceedings, particularly when the husband has filed the petition against her. In view of the facts and circumstances of the case, following order is passed:-

ORDER

- i) Misc. Civil Application No. 387/2020 is allowed.
- ii) The proceedings bearing Petition No. D/25/2020 pending on the file of Family Court No.4, Pune stands transferred to Family Court at Nagpur.
- iii) Parties to appear before the Family Court, Nagpur on 14th July, 2021.
- iv) Rule is made absolute in aforesaid terms. There shall be no order as to costs.

JUDGE