

1

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

MISC.CIVIL APPLICATION (TRANSFER) NO.538 OF 2021

1. Mr.Pandurang Supada Wadhe
Age 35 years, occupation Architect
R/at c/o Aashirwad, plot No.28,
Savarkarnagar, Thane(W) 400606.

2. Mr.Supada Onkar Wadhe
Age 60 years, occupation retired
R/at Aashirwad, plot No.28,
Savarkarnagar, Thane(W) 400606.

3. Mrs.Pramila Supada Wadhe
Age 54 years, occupation service
R/at Aashirwad, plot No.28,
Savarkarnagar, Thane(W) 400606. **Applicants.**

:: V E R S U S ::

Mrs.Arati Pandurang Wadhe
Age 27 years, occupation service Civil Engineer
R/at c/o Gajanan Sopan Gawhale,
Behind Pandav Hall, near new bus depot,
Ward No.8, Gayatrinagar,
Nandura, district Buldhana – 443404. **Non-applicant.**

=====

Shri T.J.Patil, Counsel with Shri Shahir Ansari, Adv. for Applicants.
None for the Non-applicant.

=====

CORAM : **V.M.DESHPANDE, J.**
DATE : **DECEMBER 17, 2021**

ORAL JUDGMENT

1. On 21.10.2021, this Court issued Notice to the non-applicant. In spite of service, the non-applicant is not appearing.

.....2/-

2

2. Heard learned counsel Shri T.J.Patil for applicants. **Rule.** Rule made returnable forthwith. Heard finally. With able assistance of learned counsel, I have gone through entire papers on record.

3. By this application under Section 24 of the Code of Civil Procedure, applicant No.1, who is husband of the non-applicant, is praying for transfer of proceeding filed by the non-applicant/wife under the Protection of Women From Domestic Violence Act, 2005 (for short, “the D.V.Act”) before learned Judicial Magistrate First Class at Nandura, which is registered as PWDV Application No.1/2021, to learned Judge, Family Court at Thane or any other learned Judicial Magistrate First Class at Thane.

4. According to applicant No.1, his marriage with the non-applicant was solemnized on 07.07.2020. However, immediately the non-applicant/wife left company of applicant No.1 and her matrimonial house and started residing at her parental house at Nandura. According to applicant No.1/husband, reason for transfer of proceeding filed under the D.V.Act by the non-applicant/wife from learned Judicial Magistrate First Class at Nandura to learned Judge, Family Court at Thane or any other learned Judicial Magistrate First Class at Thane is that when he went to Nandura for attending said the proceeding filed by the non-

3

applicant/wife, he was assaulted and, therefore, he has fear in his mind.

5. Papers, which are filed along with this application, show that proceeding filed by applicant No.1/husband under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights is nothing but a counter blast to proceeding filed by the non-applicant/wife under the D.V.Act. Even, according to applicant No.1/husband, within a short time of 3 months of his marriage, the non-applicant/wife left his company. It appears that no step was taken by him seeking resumption of cohabitation. Documents, annexed along with this application, show that the non-applicant/wife filed proceeding under the D.V.Act against applicant No.1/husband and others on 2.1.2021. Whereas, applicant No.1/husband filed proceeding under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights on 3.2.2021 that too not after filing of proceeding under the D.V.Act but after receipt of summons of the said proceeding. Further, though applicant No.1/husband annexed along with this application photographs of the alleged attack on him and medical certificates, surprisingly on a specific query being put, learned counsel for applicants submitted that those photographs and medical certificates were done at Thane and not at Nandura. Photographs of injuries do not take the case further inasmuch as nothing could be seen from those photographs when those photographs are taken. Further,

4

there is no medical certificate issued by Medical Officer.

6. In view of the aforesaid, no case is made out since I find that the present application for transfer of proceeding filed by the non-applicant/wife under the D.V.Act at Nandura to learned Judge, Family Court at Thane is filed with an intention to harass the non-applicant/wife by calling her from Nandura to Thane. The Miscellaneous Civil Application is **rejected** and **disposed** of as such.

JUDGE

!! BRW !!
BHUSHAN
RANA
WANKHEDE
Digitally signed
by BHUSHAN
RANA
WANKHEDE
Date:
2022.07.11
11:20:44
+0530

...../-