

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

MISC. CIVIL APPLICATION NO. 956 OF 2019.
(Dr. Ashwini w/o Manoj Jaiswal Vs. Dr. Manoj Anil Jaiswal)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri R.K. Joshi, Advocate for the applicant.
Shri A.A. Naik, Advocate assisted by Shri A.S. Manohar,
Advocate for the respondent.

CORAM : PUSHPA V. GANEDIWALA, J.
JULY 23, 2021.

Heard.

2. This is an application filed by the applicant/wife under Section 24 of the Code of Civil Procedure praying for transfer of H.M.P. No. 300/2019 pending on the file of the Civil Judge, Senior Division, Pune to the Court of the Civil Judge, Senior Division, Wardha which was filed by the non-applicant/husband.

3. It is stated that the marriage between the parties was solemnized on 09/12/2012 at Katol, District Nagpur. Out of this wedlock, they have one daughter, by name Nishi, aged around six years, who is currently staying with the applicant. Due to the marital discord between the parties, both are started residing separately.

4. It is stated that the applicant is finding it difficult to reach to the Court at Pune from Wardha on each and every date by traveling distance of around 620 kilometers. Considering his job in the Revenue Department and the age of her daughter i.e. six years who is in her custody, thus prayed for allowing the application.

5. The non-applicant resisted the application vide his reply dated 11/12/2019.

6. It is stated that the applicant is appointed as a Dental Surgeon in the Department of Dentistry, Rural Hospital, Bhidi, Tah. Deoli, District Wardha and her job is always subject to transfer after every three years. She has completed almost two years in her present posting at Bhidi, Tah. Deoli, District Wardha and is liable to be transferred within a period of one year.

7. Per contra, learned counsel on behalf of the applicant drew the attention of this Court to the Government Notification showing that the employees who have been appointed in Group-B and have been posted in the Revenue Department of Nagpur Division they would not be subject to transfer for nine years out of Nagpur Division. Accordingly, it is submitted that till 2026, the applicant would not be transferred out of Nagpur Division.

8. Considering the aforesaid submissions on behalf of the applicant and the hardships which is being faced by the applicant as stated in the application, in the opinion of this Court, the convenience of the wife and daughter is to be given preference than the inconvenience to the husband.

9. 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.

10. In this view of the matter, this Court is of the opinion that a strong case for allowing the instant application is made out and it is accordingly allowed in terms of prayer clause (a).

11. The Civil Application is accordingly stands disposed of.

JUDGE