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

MISC.CIVIL APPLICATION (TRANSFER) NO.1166 OF 2019

Ruchita @ Yogeshwari Deepak Deshmukh,
Aged about 21 years, occupation household,
R/o plot No.189, Vaishno Mata Nagari, Pipla
Road, Nagpur-440 034.
Mob.8806908756.

..... **Applicant.**

:: V E R S U S ::

Deepak @ Amit Babarao Deshmukh,
Aged about 29 years, occupation private,
R/o Ugle Layout, Sewagram,
Tahsil and district Wardha-442001.

..... **Non-applicant.**

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Shri A.D.Patil, Counsel for the Applicant.
Shri S.A.Radke, Counsel for the Non-applicant.

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CORAM : **V.M.DESHPANDE, J.**
DATE : **NOVEMBER 16, 2021**

ORAL JUDGMENT

1. Heard learned counsel Shri A.D.Patil for the applicant and learned counsel Shri S.A.Radke for the non-applicant. **RULE.** Rule made returnable forthwith. Heard finally by consent of learned counsel for parties.

2. By moving this application under Section 24 of the

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Code of Civil Procedure, applicant Ruchita, who is legally married with non-applicant Deepak, is praying for transfer of Hindu Marriage Petition No.283/2019 filed by Deepak for divorce in the Court of Joint Civil Judge Senior Division at Wardha to the Court at Nagpur.

3. After hearing learned counsel for the applicant, following undisputed facts emerge before this Court:

(a) on 11.8.2017 marriage between the applicant and the non-applicant was solemnized;

(b) thereafter she started cohabiting with the non-applicant at her matrimonial place;

(c) for some period she was treated nicely, however due to harassment she is residing at her parental house since 17.9.2018.

4. According to learned counsel for the applicant, the applicant filed proceeding under the Protection of Women from Domestic Violence Act, 2005 at Nagpur. The said proceeding was

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registered as Misc.Criminal Application No.322/2019. It is submission of learned counsel for the applicant that in spite of service the non-applicant is not participating in the said proceeding and the proceeding is still pending.

5. During course of hearing, it is brought to notice of this Court that after filing of divorce petition at Wardha by the non-applicant, the applicant appeared in the said proceeding and filed an application under Section 24 of the Hindu Marriage Act for grant of maintenance *pendente lite*. However, as on today, the said application is yet to be decided. Consequently, the applicant is not having any monetary support.

6. It is an admitted fact that the non-applicant is working as a driver and while discharging his duties as driver, many a time he visits Nagpur.

7. Since the applicant is solely dependent on her parents and her proceeding filed against her husband under the Protection of Women from Domestic Violence Act, 2005 are already pending at Nagpur and looking to nature of job of the non-applicant, no

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prejudice will be caused to the non-applicant if Hindu Marriage Petition No.283/2019 filed by non-applicant for divorce in the Court of Joint Civil Judge Senior Division at Wardha is transferred to the Court at Nagpur. Consequently, I pass following order:

ORDER

(1) Misc. Civil Application (Transfer) No.1166/2019 is allowed.

(2) Hindu Marriage Petition No.283/2019 filed by the non-applicant for divorce in the Court of Joint Civil Judge Senior Division at Wardha is hereby ordered to be transferred from the said Court to learned Principal Judge, Family Court at Nagpur immediately.

(3) Learned Principal Judge, Family Court at Nagpur either shall try to decide the said proceeding or allot the same to any other Judge, Family Court at Nagpur.

(4) Parties agree before this Court that they will be appearing before learned Principal Judge, Family Court at Nagpur on 20.12.2021.

Judgment

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The miscellaneous civil application is disposed of accordingly. Rule is made absolute in aforesaid terms. No costs.

JUDGE

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