

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

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MISCELLANEOUS CIVIL APPLICATION NO. 1143/2019

Mamta w/o Jayant Barge
Aged about 28 years, occu: household
R/o Ghosali Besa, Manewada, Nagpur.

..APPLICANT

versus

Jayant s/o Vasant Rao Barge
Aged about 40 years, occu : Labour
R/o Ward No. 14, Opp: Hanuman Mandir
Morgaon Arjuni, Gondia.

..RESPONDENT
(Non-Applicant)

.....
Mr. A. Shelat, Advocate for the applicant
None for respondent though served.
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CORAM: MRS.SWAPNA JOSHI, J.
DATED : 11th February, 2021

ORAL JUDGMENT:

1. Respondent is absent, though served.
2. Rule. Rule is made returnable forthwith. Heard finally.
3. By this Application, the applicant seeks transfer of Hindu Marriage Petition (HMP) No.176/2019 instituted by the respondent-husband, pending on the file of learned Civil Judge, Senior Division, Gondia to the Family Court at Nagpur.
4. The marriage between the applicant and non-applicant was solemnized on 08.04.2010. Out of the said wedlock, the couple was blessed with a son and daughter. It is alleged that on 10th May 2019, the applicant was driven out of the house of respondent at Gondia, after merciless beating. Therefore, she was compelled to stay with her parents at Nagpur.
5. The applicant has filed an application for maintenance u/s 125 of Cr. P.C. which is pending on the file of Family Court at Nagpur. Meanwhile, the respondent has instituted HMP No.176/2019 in the Court of Civil Judge Sr.Dn. Gondia for restitution of

conjugal rights.

5. Mr. A. Shelat, learned Advocate for the applicant-wife contended that since the applicant-wife is presently staying with her parents at Nagpur and is unemployed, she is unable to attend the court proceedings at Gondia every now and then. The applicant therefore requested that the said proceedings be transferred to Nagpur.

6. 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 HMP No.176/2019 from Gondia to Nagpur.

7. 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) The Misc. Civil Application No. 1143/2019 is allowed.
- ii) The proceedings bearing HMP No. 176/2019 pending on the file of the learned Civil Judge, Sr.Dn. Gondia stands transferred to the Court of Family Court, Nagpur,
- iii) Rule is made absolute in aforesaid terms. There shall be no order as to costs.

JUDGE

sahare