

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

MISC. CIVIL APPLICATION NO. 21 OF 2022

Sau. Dakshata W/o. Vivek Mankar vs. Vivek Rameshrao Mankar

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. N. S. Warulkar, Advocate for applicant.

CORAM : MANISH PITALE J.

DATE : 26/04/2022

By this application, the applicant (wife) is seeking transfer of petition for restitution of conjugal rights filed by the respondent (husband) from the Court of civil Judge Senior Division, Achalpur to the Family Court, at Akola.

2. Despite service of notice, respondent chose not to appear before this Court.

3. It is submitted that there is a minor child who is in the custody of the applicant and further that there is a proceeding already initiated by the applicant under the provisions of the Protection of Women from Domestic Violence Act, 2005, pending

before the competent Court at Akola and therefore, the present application may be granted.

4. The material on record indicates that the parties got married on 03/08/2018. Due to the matrimonial discord, the parties have been living separately. The applicant is constrained to live with her maternal uncle at Akola. She has no independent source of income. A male child was born from the wedlock on 06/05/2019, who is in her custody. She has initiated the aforesaid proceeding against the respondent before the competent Court under the provisions of the Protection of Women from Domestic Violence Act, 2005, which the respondent is required to attend at Akola. It is brought to the notice of this Court that the petition for restitution of conjugal rights was registered on 05/03/2020 i.e. after the aforesaid proceeding was initiated by the applicant at Akola.

5. In view of the above, this Court is convinced that a case is made out for transfer of the proceeding initiated by the respondent.

6. Accordingly, the application is allowed.

7. The petition for restitution of conjugal rights bearing H.M.P No.47/2020, filed by the respondent is transferred from the Court of Civil Judge Senior Division, Achalpur to the Family Court, at Akola.

8. Consequently, the aforesaid Court at Achalpur is directed to immediately transfer the record to the Family Court at Akola.

JUDGE