

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

MISC. CIVIL APPLICATION (TR.) NO. 32 OF 2022

Gauri w/o Anil Nimje

..VS..

Anil s/o Bhimraj Nimje

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

Court's or Judge's orders

Advocate Gauravi Mishra, h/f Shri Virat Mishra, Advocate for
applicant.

CORAM : MANISH PITALE, J.

DATED : 23/03/2022.

Heard learned Counsel appearing for the applicant Ms. Gauravi Mishra holding for Advocate Virat Mishra.

2. By this application, the applicant is seeking transfer of proceedings initiated by the respondent-husband for the Restitution of Conjugal Rights at Bhandara to the competent Court at Gondia. Notice was issued in this application to the respondent. He is served, but, he has not appeared before this Court.

3. The applicant and the respondent got married on 06.06.2006 and they have two sons from the wedlock. Due to matrimonial discord, the applicant is residing in District Gondia while the respondent is in Bhandara. It is stated that the applicant is working as a School Teacher at Ramkrishna Vidyalaya and Junior College, Khuradi, District Gondia. It is submitted that the applicant has filed a petition for Divorce and Dissolution of Marriage on 07.06.2021, before the Court of Civil Judge, Senior Division, Gondia. Thereafter, according to the applicant, only to harass her, the respondent filed the petition for the Restitution of Conjugal Rights under Section 9

of the Hindu Marriage Act 1955, on 22.11.2021 before the Court of Civil Judge, Senior Division, Bhandara.

4. It is submitted that, if the proceeding initiated by the respondent at Bhandara, is not transferred to the Court at Gondia, the applicant will suffer grave inconvenience, for the reason that she is working as a Teacher at the aforesaid Junior College and her service would be unnecessarily disturbed. It is also submitted that the applicant would have to undertake travel from Gondia to Bhandara to attend to the said proceedings, which would be inconvenient. It is further submitted that the respondent would be facing the proceedings in the Divorce Petition, which were initiated prior in point of time by the applicant, at the aforesaid Court at Gondia. It is submitted that the present application deserves to be allowed.

5. As noted above, the respondent, despite service has not appeared before this Court.

6. The contents of the application are perused and the contentions raised by the learned Counsel for the applicant, are considered. This Court is of the opinion that the applicant has made out a case for transfer of proceedings, considering the fact that she is working as a School Teacher at aforesaid Junior College at Khuradi District Gondia and it is an undisputed fact that she initiated Divorce proceedings prior in point of time, in the aforesaid Court at Gondia. Therefore, the application deserves to be allowed. Accordingly, the application is allowed.

7. The petition for Restitution of Conjugal Rights bearing H.M.P. No.174 of 2021 filed by the respondent, before the Court of Civil Judge, Senior Division, Bhandara is transferred to the Court of Civil Judge, Senior Division,

Gondia. The Trial Court at Bhandara is directed to immediately transfer the records to the Court at Gondia.

JUDGE

Trupti