

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

MISC. CIVIL APPLICATION NO. 34 OF 2019

Vaishali Nitin Nagdive

-- Applicant

Vs.

Nitin Vijay Nagdive

-- Non-applicant

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

Court's or Judge's orders

Mr. P.R. Agrawal, Advocate for Applicant

Ms. Kirti Satpute, Advocate for Non-applicant

CORAM : MANISH PITALE, J.

DATE : 1st APRIL, 2022

By this application, the applicant (wife) has sought transfer of Divorce Petition filed by the non-applicant (husband), before the Civil Judge (Senior Division), Bhandara to the Family Court at Amravati.

2. The parties got married on 30/05/2010 and it is the case of the applicant that she had to leave the matrimonial house on 01/07/2010. There is matrimonial discord between the parties, as a result of which, they are living separately from the aforesaid date. The record shows that the applicant had filed the proceedings for maintenance

under Section 125 of the Code of Criminal Procedure, which resulted in the orders in her favour. The non-applicant had also filed an application for restitution of conjugal rights, which culminated in an order in his favour.

3. Be that as it may, the record shows that divorce petition was eventually filed by the non-applicant in the year 2017, before the aforesaid Court at Bhandara.

4. The learned counsel appearing for the applicant submitted that the convenience of the wife has to be taken into consideration. The distance between Bhandara and Amravati is about 215 KM, which takes about 4 to 5 hours of journey on one side. It is submitted that the applicant would find it inconvenient to attend to the proceedings at Bhandara, which would deprive her from effectively representing her cause in the said case and that, therefore, the application deserves to be allowed.

5. The learned counsel for the non-applicant on the other hand submitted that in the divorce petition, the applicant entered appearance. She is represented by a counsel. The issues have framed and affidavit-in-evidence is also filed on behalf of the non-applicant. The stage at present is for cross-examination of the non-applicant. It is

submitted that due to pendency of the present application, the proceedings in the divorce petition at Bhandara are pending at the same stage since the year 2019. It is submitted that there is no child from the wedlock and since the applicant has substantially attended the proceedings at Bhandara, the present application does not deserve favourable consideration.

6. There can be no doubt about the fact that in such proceedings the convenience of the wife is a significant factor, but, other surrounding circumstances also deserve consideration. One of the significant aspects of the present case is that the parties lived together for only about a month or more and thereafter, they are living separately from July, 2010. There is no child from the wedlock. It is also an admitted position that the applicant attended the proceedings before the Court at Bhandara. She has engaged a counsel. The issues have been framed and affidavit-in-evidence is also tendered on behalf of the respondent.

7. There is nothing placed on record to show that after this stage circumstances arose which caused grave inconvenience to the applicant to attend the proceedings at Bhandara. It is also claimed on behalf of the applicant that

she does not have proper source of income and therefore, it would be impossible to attend the proceedings at Bhandara. The said contingency can be taken care of by issuing appropriate directions to the non-applicant. Considering the stage of the proceedings in the Court at Bhandara and the fact that the applicant indeed attended such proceedings before approaching this Court, the present application cannot be granted. Nonetheless, appropriate directions deserve to be issued to take care of the apprehension of the applicant that she may not be able to attend the proceedings at Bhandara due to financial difficulty.

8. In view of the above, the application is dismissed.

9. Yet, the non-applicant is directed to pay sum of Rs.3000/- to the applicant for each trip she would have to undertake to attend the proceedings before the Court at Bhandara in the divorce petition filed by the non-applicant. It would be in the interest of justice that the Court at Bhandara expedites the proceedings, considering the fact that the non-applicant has already placed his affidavit-in-evidence on record. Accordingly, the Court of Civil Judge (Senior Division), Bhandara, where H.M.P. No.232/2017, is pending is directed to immediately take

up proceedings in the aforesaid petition and to dispose of the proceedings expeditiously and in any case within a period of six months from today. The parties are directed to co-operate with the said Court for expeditious disposal of the petition.

10. For the convenience of the parties, the non-applicant is directed to deposit the amount of Rs.3000/- in the aforesaid Court at Bhandara before each date when the applicant is required to attend the proceedings at Bhandara. The aforesaid amount which shall be deposited by the non-applicant shall be disbursed to the applicant by the Court at Bhandara immediately

JUDGE