

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

Misc. Civil Application No. 96 of 2022

Dr. Mugdha Rajesh Bawaskar
Aged about 40 years, Occ : Medical
Practitioner, Residing at C/o
Shri Purushottam R. Khapre, 188,
“Mauli”, Near Arya Samaj Mandir,
Near Agrasen Road, Giripeth,
Nagpur – 440010.

.... Applicant

.. Versus ..

Dr. Rajesh Kashinath Bawaskar
Aged about 43 years, Occ : Medical
Practitioner, Residing at A2-1004,
Nandan Inspera Society, Dattamandir Road,
Wakad, Pune-57.

.... Non-Applicant

.....
Mr. A. J. Bhoot, Advocate for the applicant
None for non-applicant
.....

CORAM : SMT. M. S. JAWALKAR, J.
DATED : 22-06-2022

ORAL ORDER

Heard.

2. Rule. Rule made returnable forthwith.
3. Record shows that on 29-4-2022, this Court has passed the order granting fair opportunity to the non-applicant to appear before the

Court. But in spite of service, non-applicant is absent. Even today, nobody is there to represent the non-applicant.

4. The present application is filed for transfer of matrimonial proceeding viz. Marriage Petition No. 85/2022 pending on the file of learned 17th Joint Civil Judge Senior Division and Additional Chief Judicial Magistrate, Pune City, Pune to Family Court at Nagpur.

5. It is submitted that the applicant received copy of summons of Marriage Petition No. 85/2022 on 3-2-2022. It is the contention of the applicant that she is residing at her parents house at Nagpur since 23-1-2022 after returning from Canada on 22-1-2022. She is having son, aged 7 years and she is unemployed. It is also contended that the marriage was solemnized at Nagpur and Nagpur Court has jurisdiction to try this petition. The applicant has relied on the case of Hon'ble Supreme Court in ***Paushi (Smt) Vs. Akash Katoch*** reported in ***(2005) 11 SCC 556***. As against this, the non-applicant is having hospital at Wakad, Pune and is earning handsome amount. Hence, it will be convenient for him to come to Nagpur and can prosecute the matter.

6. There is no appearance on behalf of the non-applicant and submissions in this application remains uncontroverted. In view of the decision of the Hon'ble Apex Court in ***Paushi (Smt) Vs. Akash Katoch***

(supra), the wife having minor child residing with her parent is sufficient ground to transfer the matter at the place where she is residing so that she can defend effectively. Accordingly, I am satisfied that it would be appropriate to transfer the proceeding pending before the learned Civil Judge Senior Division, Pune. Hence, Marriage Petition No. 85/2022 pending on the file of learned 17th Joint Civil Judge Senior Division and Additional Chief Judicial Magistrate, Pune City, Pune is transferred to Family Court at Nagpur for trial in accordance with law.

7. Issue directions to the Principle Judge, District Court at Pune to transfer the proceeding pending before 17th Joint Civil Judge Senior Division and Additional Chief Judicial Magistrate, i.e. Marriage Petition 85/2022 Pune City, Pune to Family Court at Nagpur.

8. The application is disposed of accordingly.

JUDGE

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