

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

MISC. CIVIL APPLICATION NO. 161 OF 2021

Yashwant S/o Santosh Bawankar -- Applicant
Vs.
Smt. Roshani W/o Yashwant Bawankar -- 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. M.S. Gupta, Advocate for Applicant
Mr. Y.S. Kshirsagar, Advocate for Non-applicant

CORAM : MANISH PITALE, J.

DATE : 13th APRIL, 2022

By this application, the applicant (husband) is seeking transfer of petition for nullity of marriage from the Court of Joint Civil Judge, Senior Division, Nagpur to the Family Court at Nagpur, which is opposed by the non-applicant (wife).

2. The background facts leading up to filing of the present application are that the applicant filed a petition for nullity of the marriage before the Court of Civil Judge, Senior Division, Gadchiroli, claiming that the non-applicant was already married at the time of when the

parties got married and that this fact was suppressed from the applicant.

3. During pendency of the said petition before the aforesaid Court at Gadchiroli, the non-applicant moved Misc. Civil Application (Transfer) No.341/2019, seeking transfer of the said petition from the Court at Gadchiroli to the competent Court at Nagpur. The said transfer application was disposed of by an order dated 11/09/2019, whereby this Court directed the applicant to deposit an amount of Rs.7500/- on each date of listing of the petition before the Court at Gadchiroli towards the expenses that would be incurred by the non-applicant to attend the proceedings at Gadchiroli. It was stipulated that if there was even a single default on the part of the applicant in depositing the amount, the petition pending at Gadchiroli would stand automatically transferred to the Court of Civil Judge, Senior Division, Nagpur.

4. Admittedly, there was a default on the part of the applicant, as a consequence of which, the aforesaid proceedings stood transferred to the Court of Civil Judge, Senior Division, Nagpur. The present application has been filed in this backdrop. The learned counsel for the applicant contended that since there is a Family Court

established at Nagpur and the non-applicant is very much residing within the Corporation limits of city of Nagpur and further because the Family Court is well equipped to deal with such matters, it would be in the interest of justice that the proceedings are transferred to the Family Court at Nagpur. The aforesaid contentions are opposed on behalf of the non-applicant and it is contended that since the proceedings were transferred by an order of this Court, specifically to the Court of Civil Judge, Senior Division, Nagpur, the present application cannot be entertained.

5. This Court has considered the facts and circumstances of the present case. There can be no dispute about the fact that the Family Court is very much established at Nagpur. This Court is of the opinion that the aforesaid Court is certainly well equipped to deal with the matters with which the proceedings initiated by the applicant are concerned. The applicant has filed a petition for declaring the marriage as nullity on the ground noted above. It appears that since the applicant had initiated the proceedings at Gadchiroli before the Court of Civil Judge, Senior Division, since there was no Family Court at Gadchiroli, in the order dated 11/09/2019, disposing of the Misc. Civil Application (Tr.) No. 341/2019, this Court

directed that in case of default on the part of the applicant, proceedings would stand automatically transferred to the Court of Civil Judge, Senior Division, Nagpur.

6. The contentions raised on behalf of the non-applicant while opposing the present application cannot be accepted. This Court is of the opinion that it would be in the interest of justice that the proceedings initiated by the applicant are transferred to the Family Court at Nagpur, with a specific direction for expeditious disposal of the same.

7. In view of the above, the application is allowed. Accordingly, the proceedings initiated by the applicant bearing H.M.P. No.166/2020, pending before the Court of Joint Civil Judge, Senior Division, Nagpur are transferred to the Family Court at Nagpur. Record of the said petition be transmitted immediately to the Family Court at Nagpur.

8. In the facts and circumstances of the present case, since the applicant had initiated proceedings in the year 2018 before they were transferred, the pending petition deserves to be disposed of expeditiously. Accordingly, the Family Court at Nagpur is directed to dispose of the

aforesaid petition within a period of one year from receiving the record.

9. Application is disposed of.

JUDGE