

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

MISC. CIVIL APPLICATION (TR) NO. 238 OF 2020

Monali W/o Abhishek Kaidalwar	-- Applicant
Vs.	
Abhishekh S/o Ramesh Kaidalwar	-- 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. V.N. Morande, Advocate for Applicant

CORAM : MANISH PITALE, J.

DATE : 8th APRIL, 2022

By this application, the applicant (wife) is seeking transfer of the petition for restitution of conjugal rights filed by the non-applicant (husband) in the Family Court at Nagpur to the Court of Civil Judge (Senior Division), Gadchiroli.

2. Notice was issued in this application and despite service, the non-applicant has chosen not to appear before this Court.

3. Mr. Morande, learned counsel appearing for the applicant submits that marriage took place between the parties on 12/06/2015, but, due to matrimonial discord, they

have been living separately. The applicant had issued notice to the non-applicant intending to file a divorce petition and in this situation, the non-applicant appears to have filed the application for restitution of conjugal rights. It is also stated that the applicant has filed a petition for dissolution of marriage in the competent Court at Gadchiroli.

4. It is brought to the notice of this Court that distance between Ashti, District Gadchiroli, where the applicant is residing to Nagpur is about 230 KM and since the applicant has no independent source of income, it would be extremely inconvenient for her to represent her cause in the aforesaid petition, filed before the Family Court at Nagpur.

5. Besides, on instructions, the learned counsel for the applicant submits that as on today, the divorce petition filed by the applicant at Gadchiroli has been decreed. As to what would be the implication of the said decree on the petition for restitution of conjugal rights would have to be decided by the concerned Court, but, the applicant apprehends that if the petition is not transferred from Nagpur to Gadchiroli, it may be disposed of in her absence, which would be to her prejudice.

6. In view of the above, a case for transfer is made out. Accordingly, the application is allowed.

7. The said petition for restitution of conjugal rights bearing No. A-1446 of 2019, filed by the non-applicant and pending before the Family Court at Nagpur is transferred to the Court of Civil Judge, Senior Division, Gadchiroli.

8. The Family Court at Nagpur is directed to immediately transmit the record of the said petition to the Court of Civil Judge, Senior Division, Gadchiroli.

JUDGE