

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

Misc. Civil Application (Transfer) No.513/2021

Mrs. Swati w/o Manish Dhoke

..Versus..

Manish s/o Sidharth Dhoke

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri N.Y. Lade, Advocate h/f Shri N.A. Pantawane, Advocate for the Applicant.
Shri Hariom V. Dhage, Advocate for the Non-applicant.

CORAM : S.M. MODAK, J.

DATE : 9th JUNE, 2022.

1. Heard learned Advocate for the applicant-wife and learned Advocate for the non-applicant-husband.

2. The non-applicant-husband has filed a petition for restitution before the Court of Civil Judge (Senior Division), Akola bearing Hindu Marriage Petition No.43/2020. The present applicant is the respondent therein. In that petition, the Court has started recording of evidence and it is fixed for husband's cross-examination to be taken by the wife. The wife is also getting travelling expenses from the husband, as per the order of the matrimonial Court.

3. Apart from that, wife has filed a proceedings under Section 125 of the Code of Criminal Procedure before the Family Court, Nagpur and it is fixed for hearing on interim application. Now, the wife wants the restitution petition pending before the

Court of Civil Judge (Senior Division), Akola be transferred to the Family Court, Nagpur. It is opposed on behalf of the husband.

4. Learned Advocate for the husband relied upon a judgment in the case of *Santhini Vs. Vijaya Venketesh*¹. Whether video conferencing is permissible in matrimonial Court was an issue referred to Larger Bench. In paragraph 58, where it is permissible and where it is not permissible is laid down. Though learned Advocate for the husband invited my attention to paragraph 3 reproducing the observations of the earlier bench. Those observations were overruled and it is noted in paragraph 58.6.

5. I do not think that video conferencing is permissible in this case, wherein the wife can cross-examine the husband when the matter is pending before the matrimonial Court, Akola. It is true that Akola is far away from Nagpur. Even though modes of transport are available as compared with the husband, it is difficult for the wife to go to Akola from Nagpur. Even though she is getting travelling expenses, otherwise also the husband is attending the Family Court, Nagpur.

6. For the above circumstances, the prayer for transfer of the marriage petition needs to be allowed. Hence, the order:

ORDER

a) The application is **allowed**.

- b) Hindu Marriage Petition No.43/2020 pending before the Court of Civil Judge (Senior Division), Akola is transferred to the Family Court, Nagpur for further enquiry and disposal.
- c) Learned Principal Judge, Family Court, Nagpur to allot this matter to the Court, who is seized of Maintenance Petition No.42/2020.
- d) The non-applicant-husband is directed to attend the Family Court, Nagpur on 27th June, 2022.
- e) In view of that, the matrimonial Court at Akola need not to proceed with the matter.
- f) The concerned Family Court, Nagpur is directed to dispose of the maintenance petition and restitution petition together.
- g) The application is disposed of.

JUDGE

Vijay