

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

MISC. CIVIL APPLICATION NO. 609 OF 2022

Smt. Pooja w/o Manish Raut

Vs.

Manish s/o Ganesh Raut

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

Court's or Judge's Orders.

Mr. D.C. Chahande, Advocate for applicant.

Mr. M. Hussain, Advocate for respondent.

CORAM : ABHAY AHUJA, J.

DATE : 20.10.2022.

This is an application seeking transfer of marriage petition filed by the non-applicant-husband for restitution of conjugal rights before the Court of Civil Judge Senior Division at Warora, District – Chandrapur to Court at Civil Judge Senior Division, Nagpur.

2. Mr. Chande, learned counsel for the applicant submits that earlier the marriage between the petitioner and the respondent was solemnized on 01.05.2016 at Nagpur. Since, June 2017, the petitioner has been residing with her parents in District - Nagpur. Out of the said wedlock, a girl

child was born on 15.11.2017. There were differences between the petitioner and the respondent and on 20.04.2022, petitioner has filed a divorce petition before the Civil Judge Senior Division at Nagpur.

3. Learned counsel submits that petitioner is employed with the Western Coalfields, Nagpur; that she also has to take care of a child, who is about 5 years and cannot travel to Warora to attend the proceedings filed by the husband.

4. The counsel submits that proceedings for restitution of conjugal rights has been filed on 19.07.2022, which is subsequent to the filing of the divorce petition. Learned counsel submits that undue hardship would be caused to the petitioner, if the transfer is not allowed as the distance between Warora and Nagpur is about 150 kilometers. He submits that, it would be in the interest of justice if both the petitions are transferred to the same Judge. The pending litigation also concerns the custody of the minor child.

5. Mr. Hussain, learned counsel for the respondent husband would submit that in fact the respondent was surprised to receive the divorce

notice as he is desirous of cohabiting with his wife and child. Although the reply has been filed, learned counsel would submit that if the proceeding at Warora, Chandrapur, is transferred to the Court at Nagpur, that would be in the interest of justice provided the same are concluded expeditiously. He submits that in fact the respondent had earlier tried to obtain a job transfer from Warora to Nagpur, however, the same was not permitted by the Ordnance Factory, with which he is employed.

6. Having heard the learned counsel for the parties and having perused the application as well as the reply, this Court is of the view that in the interest of justice to transfer the petition filed by the respondent-husband, under Section 9 of the Hindu Marriage Act, at Warora to the Court of Civil Judge Senior Division, at Nagpur.

7. Let the Hindu Marriage Petition No. A-115/2022, filed by the respondent-husband be transferred to the Civil Judge Senior Division at Nagpur.

8. It is made clear that, if there is any video conferencing facility available in the Court of Civil Judge Senior Division at Nagpur and the personal

physical presence of the parties is not required, then the proceedings shall be through video conferencing.

9. Let the parties appear before the concerned Civil Judge Senior Division at Nagpur on **02.11.2022**.

10. The application stands allowed in the above terms.

JUDGE