

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

MISC. CIVIL APPLICATION NO. 627 OF 2022

Mrs. Mansi w/o Sumit Parchand

Vs.

Mr. Sumit s/o Shriram Parchand

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

Court's or Judge's Orders.

Mr. S.A. Mohta, Advocate for applicant.
Mr. P.P. Kotwal, Advocate for respondent.

CORAM : ABHAY AHUJA, J.

DATE : 14.10.2022.

This is an application filed by the wife for transfer of the Hindu Marriage Petition No.A-496/2021, pending in the Court of 4th Joint Civil Judge Senior Division, Nagpur, filed by the husband/non-applicant to the Family Court at Pune.

2. It is stated in the application that the marriage between the applicant and non-applicant was solemnized on 11.07.2013 at Pune and although, they knew each other since the year 2007. It is submitted that a daughter was born to them on 10.07.2018. There were various differences between the couple with respect to their relationship and ultimately, in the month of February 2020, the

applicant left her matrimonial house along with her daughter aged about two years to reside at her parents house in Pune.

3. It is also stated that from February 2020, the husband did not call the wife or even asked, for the child for almost three months. It is submitted that on 08.08.2021, the husband sent a legal notice for divorce on the ground of cruelty to the wife and thereafter, on 10.11.2021, the divorce petition came to be filed in the Court at Nagpur.

4. Mr. Mohta, learned counsel for the applicant submits that the distance between Nagpur and Pune, is almost 750 kilometers and it would be absolutely inconvenient for the applicant-wife who has a minor child to take care of to travel all the way 750 kilometers to Nagpur on the dates, the matter is fixed for appearance.

5. Learned counsel for the applicant submits that, presently the stage of the matter before the Nagpur Court is for filing of the written statement. He submits that this is a fit case of undue hardship and therefore, the application deserves to be allowed.

6. On the other hand, Mr. Kotwal, learned counsel for the non-applicant submits that this is a case of suppression of facts; he would submit that the applicant is well employed and well to do in a private job. He submits that, she travels all over the Country for her work and to say that to travel from Nagpur to Pune would be inconvenient, is a fallacious statement. During the course of his arguments, Mr. Kotwal, also informs this Court that the non-applicant/husband has now moved to Dubai for a job and would attend the Family Court at Nagpur, as and when required.

7. Having heard the learned counsel for the parties, this Court is of the view that the paramount consideration in matters of this nature seeking transfer under Section 25 of the Code of Civil Procedure, is the undue hardship that would be caused to the wife. It appears in the case that although the applicant as well as non-applicant may be well employed but, it is the applicant, who is taking care of the minor child and it would indeed to inconvenient to the applicant who has the minor child to take care, if she has to travel every now and then to Nagpur and leave the child to some one else's care. In my view, this would cause undue

hardship to the applicant and the allegation that the applicant travels all over the Country for her work, in my view, would not have any bearing in the facts of this case.

8. In this view of the matter, this Court is of the view that the Hindu Marriage Petition No.A-496/2021, is pending before the 4th Joint Civil Judge Senior Division, Nagpur, be transferred to the Family Court at Pune.

9. Let the parties appear before the Family Court at Pune on 25.11.2022.

10. Registry to forward a copy of this order to the Family Court at Pune.

11. It is made clear that, if there is any video conferencing facility available in the Family Court at Pune and the personal physical presence of the parties is not required then the proceedings shall be through video conferencing.

12. The application is allowed in the above terms. No costs.

JUDGE