

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

MISC. CIVIL APPLICATION (TR) NO.45 OF 2023

[Smt. Kalpana W/o Lokesh Thaware ..V/s.. Shri. Lokesh S/o. Madhukar
Thaware]

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Mr Y. B. Kullarwar, Advocate for Applicant.

CORAM : URMILA JOSHI-PHALKE, J.

DATE : 18th APRIL, 2023.

. Present application is by the applicant for seeking transfer of the matrimonial proceedings bearing Petition No.A-1047 of 2019 pending before the Principal Judge Family Court, Nagpur to the Civil Judge Senior Division, Chandrapur.

2. Application is filed on the ground that the marriage of the applicant with the non-applicant was performed on 01.07.2018. After marriage, she resumed cohabitation, however, she was not treated well. Therefore, she constrained to leave the matrimonial house and staying at the mercy of her parents. After she was deserted, non-applicant has not made any provision for her livelihood, therefore she filed proceedings bearing Misc. Criminal Case No.139 of 2019 under the Domestic Violence Act, 2005, before 7th Joint Civil Judge Junior Division and Judicial Magistrate First Class, Chandrapur. Now, the non-applicant has filed petition for seeking the dissolution of marriage, which is pending before the Family Court at Nagpur. As per contention of the applicant – wife, the distance between Chandrapur and Nagpur is 155 kms. As the another proceeding is already pending

before the Judicial Magistrate First Class, Nagpur, it will be convenient for her to attend the proceeding at Chandrapur. Moreover, the non-applicant is residing at Mumbai, so no prejudice will be caused to him even though the proceeding is transferred to Chandrapur.

3. Notice of this application is served on the non-applicant, but he preferred not to appear or not to contest the application. The proceeding which is filed by the applicant is already pending before 7th Joint Civil Judge Junior Division and Judicial Magistrate First Class, Chandrapur. It is also apparent that she has filed an application for monetary relief, but no relief is granted to her by Court and non-applicant has also not made any provision for her maintenance or for her livelihood. In such circumstances, it is difficult for her to bear the cost of litigation. Considering the distance between two cities and she is unable to bear the cost of litigation, it will be appropriate to transfer the proceeding bearing Petition No.1047 of 2019 pending before the Principal Judge, Family Court, Nagpur to the Civil Judge Senior Division at Chandrapur for adjudication. Taking into consideration the convenience of the applicant – wife and another proceeding is already pending at Chandrapur Court, present application deserves to be allowed.

4. In view of the above, I proceed to pass the following order :

ORDER

- i) Civil Application is **allowed**.
- ii) The Petition bearing No.A-1047 of 2019 pending before the Principal Judge, Family Court at

Nagpur be transferred to the Civil Judge Senior Division, Chandrapur.

iii) The Principal Judge, Family Court, Nagpur shall send the record and proceedings to the Civil Judge Senior Division, Chandrapur for adjudication.

iv) The parties to appear before the Civil Judge Senior Division, Chandrapur on 06.06.2023.

5. The civil application is disposed of accordingly.

JUDGE

Though the Court has awarded the interim maintenance amount, but the non applicant has not deposited any amount towards maintenance.