

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

MISC. CIVIL APPLICATION NO.56 OF 2022

(Mrs. Bhagyashree w/o Sachin Suryawanshi Vs. Sachin s/o Prabhakar Suryawanshi)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri H.D. Futane, Advocate for the applicant.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- MARCH 21, 2023.

Heard.

2. This application is filed under Section 24 of the Code of Civil Procedure for seeking transfer of the matrimonial proceeding.

3. Notice of the said application though served on the non-applicant, he remained to be absent.

4. As per the contention of the applicant, her marriage with the non-applicant was performed on 18/06/2011. She has one son from the said wedlock aged about 10 years. After marriage she resumed cohabitation however she was not treated well, therefore, she was constrained to leave matrimonial house. Now she is residing at the mercy of her mother.

5. The distance between Amravati and Nagpur is more than 150 kilometers. As the non-applicant has not made any provision for her maintenance, she is unable to bear the cost of litigation. Moreover, there is nobody to escort her to attend the proceeding.

6. For all above these grounds she is seeking transfer of the petition No. A-240/2021 from Family

Court, Amravati to the Family Court, Nagpur.

7. Said application is not contested by the non-applicant though notice is served on him.

8. Heard Shri Futane, learned Counsel for the applicant.

9. In view of the reasons mentioned in the application and considering the applicant is having 10 years old son, if she has to attend the proceeding she has to travel along with her son. The non-applicant has not made any provision for her maintenance hence she is unable to bear the cost of litigation.

10. The proceeding which is filed at Amravati is inconvenient for her to attend at Amravati.

11. In support of the contention Shri Futane, learned Counsel placed reliance on ***N.C.V Aishwarya Vs. A.S. Saravana Karthik Sha*** (Civil Appeal No.4894/2022) by order dated 18/07/2022 wherein the Hon'ble Apex Court dealt with this issue and held in paragraph No.9 as follows:

“9. The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in

eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socio- economic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer."

12. As noticed above taking into consideration, the convenience of the applicant, the application deserves to be allowed. Hence, the following order is passed :

- (i) The application is allowed.
- (ii) The matrimonial proceeding bearing petition No.A-240/2021 pending before the Family Court, Amravati be transferred to the Family Court, Nagpur.
- (iii) The Family Court, Amravati shall send the record and proceedings to the Family Court, Nagpur.
- (iv) The parties to appear before the Family Court, Nagpur on 11/04/2023.

(URMILA JOSHI-PHALKE, J.)

**Divya*