

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

MISC. CIVIL APPLICATION NO.365 OF 2022

(Priyanka w/o Anand Gachke Vs. Anand s/o Sharadrao Gachke and anr.)

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

Court's or Judge's Order

Shri D.G. Takwale, Advocate for the applicant.

Shri S. Pande, Advocate h/f Ms D. Khandelwal, Advocate for
non-applicant No.2.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- MARCH 13, 2023.

Heard.

2. By this application, the applicant is seeking transfer of matrimonial proceedings bearing No. A-54/2022 pending in the Family Court, Aurangabad to the Civil Judge, Senior Division, Hinganghat, District Wardha.

3. The notice of the said application though served to non-applicant No.1, none appeared.

4. Shri Ghuge, learned Counsel on the last occasion mentioned that he will file the Vakalatnama but he has not filed his Power and today none is present for non-applicant No.1.

5. Shri S. Pande, learned Counsel holding for Ms Khandelwal, learned Counsel for non-applicant No.2 is present.

6. As per the contention of the applicant, her marriage with the non-applicant No.1 was solemnized on 30/03/2010 at Nagpur. The applicant is having two children from the said wedlock. The non-applicant No.1 is working in L & T company at Aurangabad. After marriage, she resumed cohabitation at the house of non-applicant No.1 but she was not treated well and non-applicant No.1 has suspected her chastity alleging that she had illicit relations with non-applicant No.2. Therefore, she constrained to leave matrimonial house and now she is residing at the mercy of her parents at Hinganghat, District Wardha. The distance between the Hinganghat and Aurangabad is more than 500 kilometers. The applicant is housewife. After desertion, non-applicant No.1 has not made any provision for her maintenance or for her livelihood, therefore, she is unable to bear the cost of litigation.

7. It is further contended that it is difficult for her to attend the proceeding at Aurangabad by travelling along with her son who is residing along with her. For all above these grounds she claimed that taking into consideration the inconvenience, the matrimonial proceeding which is filed by non-applicant No.1 be transferred to the Civil Judge, Senior Division, Hinganghat, District Wardha.

8. Heard Shri Pande, learned Counsel for non-applicant No.2 who has no objection for the said transfer.

9. Shri Takwale, learned Counsel for the applicant reiterated the same contentions and in addition to that he submitted that considering the inconvenience of the applicant/wife the matrimonial proceeding be transferred to the Civil Judge, Senior Division, Hinganghat.

10. Perused the application and the statement made by Shri Takwale, learned Counsel for the applicant as well as Shri Pande, learned Counsel for non-applicant No.2.

11. It is apparent that the applicant is residing at Hinganghat, District Wardha. The distance between Hinganghat and Aurangabad is more than 500 kilometers. Moreover, non-applicant No.1 has not made any provision for her maintenance or for her livelihood and as she has no source of income, she is unable to bear the cost of litigation. One of the son of the applicant and non-applicant No.1 is residing along with the applicant and it is difficult for her to attend the proceeding by travelling 500 kilometers along with son. There is nobody to escort her to attend the proceeding.

12. In view of above circumstances and by noticing an inconvenience which would be caused to the applicant/wife, the application deserves to be allowed. No prejudice will be caused to the non-applicant No.1 if the application is transferred to the Civil Judge, Senior Division, Hinganghat.

13. Hence, I proceed to pass the following order :
- (i) The application is allowed.
 - (ii) The matrimonial proceeding bearing No.A-54/2022 pending in the Family Court, Aurangabad is transferred to the Civil Judge, Senior Division, Hinganghat.
 - (iii) The Family Court, Aurangabad shall send the record and proceedings to the Civil Judge, Senior Division, Hinganghat for adjudication.
14. The parties shall remain present before the Civil Judge, Senior Division, Hinganghat on 01/04/2023.
15. The application stands disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*