

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

MISC. CIVIL APPLICATION (TR.) NO.286 OF 2023

Priya w/o Sachin Dhage

Vs.

Sachin s/o Ramdas Dhage

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

Court's or Judge's orders

Ms. Jaishree Junghare, Advocate h/f Mr. Mohtesim Badar, Advocate for applicant.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 03/05/2023

1. By this application, the applicant is seeking transfer of A-Petition bearing No.312/2021 i.e. petition for restitution of conjugal rights pending before the Family Court, Akola to Civil Court at Pusad, District Yavatmal.

2. The application is filed on the ground that the applicant is legally wedded wife of the non-applicant and since last two years, she is residing at the mercy of her parents, on account of domestic violence at the hands of the non-applicant. Now, applicant had filed two cases to the Court at Pusad under Section 125 of the Code of Criminal Procedure and under the provisions of Protection of Women from Domestic Violence Act. The non-applicant is regularly attending the Court and contesting it on merits. The distance between Pusad to Akola is more than 140 Km. The applicant is a lady and

she has to incur the expenses of more than Rs.2,000/- per visit. The non-applicant has not made any provisions either for her maintenance and for her livelihood though she was deserted by him.

3. Notice of the said application though served on the non-applicant, non-applicant failed to appear and chosen not to contest the application.

4. Heard learned Advocate Ms. Jaishree Junghare for the applicant. She reiterated the contentions and submitted that as the non-applicant is already attending the two proceedings in Pusad, no prejudice will be caused to him, if the proceeding filed by him is transferred from Akola to Pusad.

5. Perused the application. There is no dispute that applicant has preferred two proceedings wherein the non-applicant has placed his appearance and he is attending both the proceedings. The distance between Pusad and Akola is more than 140 km. It is well settled that while considering the transfer application in matrimonial proceeding the convenience of the applicant – wife is to be looked into. As the non-applicant is already attending two proceedings at Pusad no prejudice will be caused to him, if the proceeding filed by him in the Court of Family Court, Akola is transferred to Civil Court at Pusad. In view of that, application deserves to be allowed. Hence, I proceed to pass following order.

(i) The Misc. Civil Application is allowed.

(ii) The A-Petition No.312/2021 pending before the Family Court, Akola be transferred to the Civil Judge Senior Division, Pusad for adjudication.

(iii) The Family Court, Akola shall send record and proceeding to the Civil Judge Senior Division, Pusad for adjudication.

(iv) The parties to appear before the Civil Judge Senior Division, Pusad on 08.06.2023.

(URMILA JOSHI-PHALKE, J.)

Sarkate