

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

MISC. CIVIL APPLICATION NO.228 OF 2022

Sau. Nikhita w/o Abhidhammapitak Sonone ..vs.. Mr. Abhidhammapitak s/o Janardan
Sonone

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

Court's or Judge's Order

Advocate S.N. Nagrale, for the applicant.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- JANUARY 23, 2023.

Heard.

2. By this application, the applicant is seeking transfer of matrimonial proceedings bearing No.A-2661/2021 pending in the Family Court-5, Pune to the Civil Judge, Senior Division, Hinganghat, District Wardha.

3. As per the contention of the applicant, her marriage with the non-applicant was solemnized on 25/01/2020. After marriage, she resumed cohabitation at the house of the non-applicant but she was not treated well and she constrained to leave matrimonial house, therefore, she has filed an application bearing M.C.A. No.32/2021 in the Court of Civil Judge, Junior Division, Hinganghat. The non-applicant has also preferred the Hindu Marriage Petition under Section 12(1) for Hindu Marriage Act for declaration that the marriage is null and void. It is further contention of the applicant, that she is jobless. She has no source of income. She is residing at the mercy of her parents. Though non-applicant has deserted her, has not made any provision for her

maintenance and livelihood. Hence, she is unable to bear the cost of the litigation.

4. Moreover, the distance between the Hinganghat and Pune is more than 800 kilometers. There is nobody to escort her to attend the proceedings at Family Court, Pune.

5. Though notice of the application is served on the non-applicant he has chosen not to appear and contest the application. After service of notice one more opportunity was granted to the non-applicant but he failed to appear and contesting the application.

6. Perused the application. The contention of the applicant that no provision for her maintenance is made by the non-applicant as well as the distance between the two places is more than 850 kilometers are to be considered. The Hon'ble Apex Court in the case of ***N.C.V Aishwarya Vs. A.S. Saravana Karthik Sha*** (Civil Appeal No.4894/2022) by order dated 18/07/2022 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.”

7. As noticed above, the applicant is the young lady aged about 29 years having no source of income. It is difficult for her to travel from Hinganghat to Pune as nobody is in the house to escort her to attend the proceedings.

8. In view of above circumstances, the application deserves to be allowed. Hence, the following order :

(i) The application is allowed.

(ii) The matrimonial proceeding bearing No.A-2661/2021 pending at the Family Court-5, Pune is transferred to the Civil Judge, Senior Division, Hinganghat, District Wardha.

9. The application stands disposed of.

(URMILA JOSHI-PHALKE, J.)