



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

MISC. CIVIL APPLICATION (TR.) NO.407/2023

Archana Arun Nagrik (Tekale)
Vs.
Arun S/o Parmeshwar Nagrik

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

Court's or Judge's orders

Mrs Mukta Kavimandan, Advocate for applicant
Shri Y.R. Kinkhede, Advocate for respondent

CORAM : SMT. M.S. JAWALKAR, J.
DATED : 30/10/2023

This Court heard the matter finally in absence of Counsel for respondent as it was shown by the office that the respondent is served but has not filed Vakalatnama.

2. The learned Counsel for respondent pointed out that vakalatnama was there, which was duly accepted by the office. However, it was not uploaded. Therefore, his name did not appear in the matter. In view thereof, earlier order was recalled and original Misc. Application was restored to its file and taken up for hearing.

3. The present application is filed by the applicant for transfer of proceedings bearing Petition No. A-270/2022 filed by non-applicant under Hindu Marriage Act from Family Court Nanded to Family Court, Buldhana. The applicant is legally wedded wife

of the non-applicant and their marriage was performed on 28/11/2010. After marriage, the applicant started cohabiting with non-applicant at her matrimonial house at Nanded. Out of said wedlock, they have begotten a son namely Dhruv on 20/01/2013. However, due to differences of opinion and dispute, she was constrained to return back along with her child at Buldhana on 10/03/2020.

4. It is submitted that the distance between Buldhana to Nanded is around 245 km. However, there is no direct connectivity. Secondly, applicant has filed application under Section 12 of the Protection of Women from Domestic Violence Act, bearing PWDVA No.17/2022 before the C.J.M. Buldhana. As such, non-applicant would require to attend the proceedings at Buldhana. Her son is studying in 3rd standard and her parents are old aged persons. As the non-applicant has filed one Petition No.A-207/2020 under Hindu Marriage Act at Nanded, the applicant had earlier filed application bearing MCA No.169/2022 in this Court for transfer of said proceedings at Buldhana. In the said matter, the non-applicant had appeared and made a statement that he is withdrawing the Petition No.A-207/2020 filed by him. As such Civil Application was disposed of. However, to her utter shock, the applicant surprisingly received summons issued by learned Family Court, Nanded on 13/12/2022 in the said proceedings. In view of this fact and also in view of the fact that there is no direct connectivity from

Buldhana to Nanded and applicant may require to travel 490 km. application needs to be allowed.

5. The learned Counsel for non-applicant relied on *Anindit Das Vs. Srijit Das reported in (2006) 9 SCC 197* and *Preeti Sharma Vs. Manjit Sharma reported in (2005) 11 SCC 535*. In support of his contention that looking to the submission of unemployment if there is any financial difficulty, the non-applicant is ready to pay amount for travel, however facts involved in matter relied on by the non-applicant are distinguishable. Here apart from financial difficulty, distance, responsibility of child, pending proceedings are also reasons for consideration.

6. In view of this backdrop, it would be appropriate to transfer the proceedings from Nanded to Buldhana otherwise, the applicant would suffer great hardship and inconvenience. So far as both the applicant and non-applicant are Doctors by profession. Therefore, to serve the interest, permission is granted the non-applicant to appear through video conference. Accordingly, I proceed to pass the following order:

ORDER

- i) The application is allowed.
- ii) The proceedings bearing Petition No.A-270/2022 pending on the file of learned Family Court, Nanded is hereby withdrawn and transferred to learned Family Court, Buldhana.

iii) Learned Principal Judge, Family Court, Nanded to facilitate the transfer.

iv) The non-applicant is permitted to appear through video conference unless the judge requires his personal presence.

v) The matter before the Family Court, Buldhana is hereby expedited.

JUDGE

R.S. Sahare