

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

MISCELLANEOUS CIVIL APPLICATION (TRANSFER) NO. 274/2022

(DIPMALA SACHIN BANSOD **VERSUS** SACHIN WAMANRAO BANSOD)

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

Court's or Judge's order

Shri P.S. Kadam, counsel for the applicant.
Shri N.G. Dolas, counsel for the non-applicant.

CORAM : URMILA JOSHI-PHALKE, J.

DATE : FEBRUARY 24, 2023.

By this application, the applicant-Wife is seeking transfer of the matrimonial proceedings bearing H.M.P. No.175 of 2021 pending before the Civil Judge (Senior Division), Achalpur to Civil Judge (Senior Division), Wardha.

The learned counsel for the applicant submitted that the marriage between the applicant and the non-applicant was solemnized on 07.12.2020. After marriage, the applicant started cohabiting with the non-applicant. However, she returned to her parents home. The applicant has filed a petition bearing H.M.P. No.265 of 2021 against the non-applicant before the Civil Judge (Senior Division), Wardha for declaring her marriage as null and void. After the notice of the said petition was served, the non-applicant had appeared in the matter. Thereafter, the non-applicant filed a petition bearing H.M.P. No. 175 of 2021 before the Civil Judge (Senior Division), Achalpur. It is contended that the distance between Achalpur and Wardha is approximately 175 kilometers and due to her sickness she is unable to travel from Wardha to Achalpur to attend the proceedings. It is further submitted that though the non-applicant is residing at Pune, he has filed the petition at Achalpur in order to harass the applicant. It is thus prayed that the petition pending before the Civil Judge (Senior Division), Achalpur be transferred to the Court of Civil Judge (Senior Division), Wardha so that there would not be conflicting decisions if both the proceedings are decided by the same Court.

The learned counsel for the non-applicant raised an objection on the ground that no sufficient and reasonable cause is mentioned in the application for transfer of the petition. The learned counsel for the non-applicant has referred to the pleadings in H.M.P. No. 175 of 2021 pending before the Civil Judge (Senior Division), Achalpur to the effect that after marriage he took the applicant to Pune for cohabitation. He submitted that on the basis of this pleading, it can be gathered that the non-applicant is residing at Pune. It is further submitted that both the proceedings are separate and both can be decided separately and no prejudice would be caused to the applicant if those proceedings are decided by the different Courts. It is thus prayed that the application deserves to be rejected.

Heard the learned counsel for the parties and perused the application and the reasons mentioned therein. The ground raised by the applicant that earlier she had filed a petition for declaring her marriage as null and void. Another ground raised by her is that the distance between Achalpur and Wardha is more than 175 kilometers and visiting Achalpur on every date of the proceedings is not convenient for her. Admittedly, if both the proceedings are decided by one Court there would not be conflicting decisions. Now it is well settled that while considering the matrimonial proceedings, convenience of the wife is to be taken into consideration. The Hon'ble Supreme Court has held in *N.C.V. Aishwarya Versus A.S. Saravana Karthik Sha* [**Civil Appeal No.4894 of 2022**] that the cardinal principal 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 is 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.

In view of the above, in the present case also the applicant has already filed the proceedings in the Court of Civil Judge (Senior Division), Wardha. If both the proceedings are decided by the same Court then the conflicting decisions would be avoided. Moreover convenience of the wife in view of the above judgment is to be taken into consideration. In the result, the application deserves to be allowed. Hence, the following order is passed:-

- I. H.M.P No.175 of 2021 pending before the Civil Judge (Senior Division), Achalpur be transferred to the Court of Civil Judge (Senior Division), Wardha.
- II. Civil Judge (Senior Division), Achalpur shall send the Record & Proceedings to the Court of Civil Judge (Senior Division), Wardha at the earliest.
- III. Both the parties shall appear before the Civil Judge (Senior Division), Wardha on 10.03.2023.

The miscellaneous civil application is allowed in aforesaid terms and disposed of.

(URMILA JOSHI-PHALKE, J.)

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