

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

MISC. CIVIL APPLICATION NO.271 OF 2022

(Smt. Anjali w/o Prashant Tuplondhe Vs. Shri Prashant s/o Ramdas Tuplondhe)

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

Court's or Judge's Order

Shri A.R. Deshpande, Advocate for the applicant.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- MARCH 17, 2023.

Heard.

2. Present application is filed under Section 24 of the Code of Civil Procedure for seeking transfer of HMP No. 226/2021 pending in the Family Court, Nashik to the Civil Judge, Senior Division, Khamgaon, District Buldhana.

3. The applicant is a legally wedded wife of non-applicant whose marriage was solemnized on 30/01/2020. The grounds raised by the applicant is that after marriage though she resumed cohabitation at the house of the non-applicant she was not treated well by the non-applicant and his family members, so she constrained to leave the matrimonial house and now staying at the mercy of her parents.

4. After she was deserted by the non-applicant, non-applicant has not made any provision for her maintenance or livelihood thus, she is not having any source of income, therefore, she is unable to bear the cost of litigation.

5. It is further contention of the applicant that the distance between the Nashik and Khamgaon is more than 400 kilometers and requires 7-8 hours to reach at Nashik to attend the proceedings. There is nobody to escort her to attend the proceeding. Therefore, considering her inconvenience, the HMP No.226/2021 be transferred from Nashik to Khamgaon.

6. Notice of the said application though served to on the non-applicant, he preferred not to contest the application and failed to appear.

7. Heard Shri A.R. Deshpande, learned Counsel for the applicant. He reiterated the same contentions and additionally submitted that considering the convenience of the applicant, which is now settled by the judgment of the Hon'ble Apex Court, the application deserves to be allowed.

8. Perused the application and considered the submissions made by the learned Counsel for the applicant.

9. It is apparent that now the applicant is residing at Khamgaon at her parents house. She is 37 years old. The distance between the two cities is more than 400 kilometers. Moreover, non-applicant has not made any provision for her livelihood, therefore, she is unable to bear the cost of litigation.

10. Considering the convenience of the applicant that she is unable to travel all alone at 400 kilometers to attend the proceeding, is acceptable.

11. 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 dealt with this issue and 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.”

12. As noticed above taking into consideration, the convenience of the applicant, the application deserves to be allowed. Hence, the following order is passed :

- (i) The application is allowed.
- (ii) The matrimonial proceeding bearing HMP No.226/2021 pending before the Family Court, Nashik be transferred to the Civil Judge, Senior Division, Khamgaon, District Buldhana.

(iii) The Family Court, Nashik shall send the record and proceedings to the Civil Judge, Senior Division, Khamgaon, District Buldhana.

(iv) The parties to appear before the Civil Judge, Senior Division, Khamgaon, District Buldhana on 10/04/2023.

(URMILA JOSHI-PHALKE, J.)

**Divya*