

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

MISC. CIVIL APPLICATION (TR) NO. 277/2022

Sau. Shamli Kapil Dhavne And Others

Vs

Shri Kapil Vinayak Dhavne

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

Court's or Judge's Order

Ms Mohini A. Sharma, advocate for the appellants.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 02/05/2023.

1. The present application is for seeking transfer of the matrimonial proceeding bearing A Petition No. 77/2022 pending before the Principal Judge, Family Court, Akola to the learned Principal Judge, Family Court, Amravati.

2. The application is filed on the ground that the marriage between the applicant/wife to the non-applicant was performed on 26/08/2014. From the said wedlock, they are having two children. One son is aged about 5 years and one daughter is aged about 2 years. After marriage, there were some matrimonial disputes between them, and therefore, the applicant/wife was constrained to leave the matrimonial house and staying at the mercy of her parents.

3. After desertion of the non-applicant/husband, the non-applicant has not made any provision for her

livelihood or for her maintenance. She had already filed a proceeding under Section 12 of the Protection from Domestic Violence Act for monetary relief before the Chief Judicial Magistrate, Amravati, wherein the non-applicant put his appearance and attending the proceedings. The distance between Amravati to Akola is more than 150 km. As the applicant is having two small children and it is very difficult for her to attend the proceedings by leaving behind the children or by taking them along with her. Taking into consideration, the convenience of the applicant/wife, it was requested to transfer the proceedings from Akola to Amravati.

4. Though the notice of the said application is served on the non-applicant/husband, he has chosen not to appear before the Court. This Court, on 20/04/2023, granted one more opportunity to him, however, he failed to appear the same. Today also, none appeared on behalf of the non-applicant.

5. Heard learned advocate Ms Mohini Sharma for the applicant/wife. She reiterated the contention and submitted that as the non-applicant is already attending the proceedings at Amravati in the Domestic Violence Proceedings, no prejudice will be caused to him, if the matter is transferred from Akola to Amravati.

6. In view of the reasons mentioned in the application and considering the fact that the applicant/ wife is having two small children, it is difficult for her to attend the proceedings either by carrying the two small children at Akola or keeping them behind her. Moreover, there is nobody to look after the small children in her absence. She has also no source of income to bear the cost of the litigation.

7. In view of the above discussions, the Misc. Civil Application deserves to be allowed. Hence, I pass the following order :

- a) Misc. Civil Application is **allowed**.
- b) The Marriage Petition A-Petition No. 77/2022 pending before the Principal Judge, Family Court, Akola be transferred to the Principal Judge, Family Court, Amravati.
- c) The learned Principal Judge, Family Court Akola shall send record and proceedings to the learned Judge Family Court, Amravati for adjudication.
- d) Both the parties shall appear before the Family Court Amravati on 08/06/2023

Misc. Civil Application is **disposed of**.

JUDGE