

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

MISC. CIVIL APPLICATION NO. 411 OF 2022

Sau. Kavita Vivek Gongale

..VS..

Vivek S/o Ramgi Gongale

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

Court's or Judge's orders

Ms. Rani G. Nitnaware, Advocate for applicant.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : APRIL 13, 2023

Heard.

2. Present application is under Section 24 of the Code of Civil Procedure for seeking transfer of matrimonial proceeding bearing A/Petition No. 200/2021 pending in the Family Court at Amravati.

3. As per contention of the applicant her marriage with non-applicant was solemnized on 20.04.2011. After marriage, she resumed cohabitation at the house of the non-applicant however, matrimonial dispute arose between them and thereafter she left the matrimonial home and staying with her parents. She had filed an application under Section 9 for Restitution of Conjugal Right which is pending before the Family Court, Amravati. The non-applicant has also preferred the petition bearing A/Petition No. 1050/2021 which is pending before the Family Court-2, Nagpur. Now the applicant has shifted at Nagpur and it is difficult for her

to attend her own proceeding pending at Family Court, Amravati. She further submitted that if both the petitions are decided by one and the same Court, there would not be a conflicting decision and prayed for transfer of the proceeding which is filed by her at Family Court, Amravati.

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

5. The reason mentioned by the applicant is that as she shifted at Nagpur, she has claimed the transfer of her own proceeding at Nagpur. Admittedly, another proceeding filed by the non-applicant is pending in the Family Court-2, Nagpur. If both the proceedings are decided by the one and the same Court, admittedly there would not be a conflicting decisions.

6. In view of that the applicant has made out the case for transfer her proceeding from Family Court, Amravati to Family Court-2, Nagpur.

7. In the above circumstances, the application deserves to be allowed hence, I pass the following order :

- (i) Misc. Civil Application No. 411 of 2022 is allowed.
- (ii) The matrimonial proceeding A/Petition No. 200/2021 pending before the Family Court, Amravati be transferred to Family Court-2, Nagpur.

- (iii) The Family Court, Amravati shall sent the record and proceeding A/Petition No.200/2021 to the Family Court-2, Nagpur.
- (iv) The parties to appear before the Family Court-2, Nagpur on 27.04.2023.
- (v) Misc. Civil Application No. 411 of 2022 is disposed of.

(URMILA JOSHI-PHALKE, J.)

Kirtak