



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

MISC. CIVIL APPLICATION NO. 506 OF 2023

Ms. Shubhra alias Shweta Prajal Tikar

alias Shweta Avinash Lakhpati,

Aged 27 years, Occ. Service,

R/o. C/o. Avinash Devidaspant Lakhpati,

Near Telephone Office, Bajirao Nagar, Digras,

Tq. Digras, Dist. Yavatmal 445203.

... Applicant

.. Versus ..

Prajal Prakash Tikar,

Aged about 30 years, Occ. Service,

R/o. S/N 23/1, Anand Vihar Society,

Behind Hindustan Bakery,

Sinhagad Road, Pune: 411051

Mob. No. 9028734328

...Non-applicant

Shri A.A.Zade, Advocate for applicant.

Shri Kaustubh Kadasne, Advocate for non-applicant.

CORAM : SMT. M.S. JAWALKAR, J.

DATE : 07/10/2023

ORAL JUDGMENT

Heard both the parties at length.

2. The applicant has filed the present application for transfer of proceedings i.e. Petition No. A/551/2023 filed by the

non-applicant before learned Family Court No. 2, Pune to learned Civil Judge, Senior Division, Darwaha, Dist. Yavatmal.

3. It is submitted that the applicant is legally wedded wife of the non-applicant and their marriage was solemnized on 28/06/2021 at Pune. Both the applicant and non-applicant are Software Engineers. After marriage, the some dispute arose between the parties and the applicant was constrained to leave her matrimonial house. She is residing at parental house at Digras. The applicant sent legal notice to the non-applicant on 08/10/2022, however, the non-applicant did not come to take her back. Therefore, the applicant filed H.M.P. No. 164/2022 under Section 9 of Hindu Marriage Act, 1956 for restitution of conjugal rights on 16/12/2022 before learned Civil Judge, Senior Division, Darwaha, Dist. Yavatmal. It is alleged that, only with an intention to harass the applicant, the non-applicant also filed the proceedings bearing Petition No. A/551/2023 under Section 9 and/or for divorce under Section 13-1(ia) of Hindu Marriage Act, 1956 before learned Family Court, Pune.

4. The distance between Pune to Darwaha is 600 km. The father of applicant has undergone knee replacement surgery

and it is very difficult for him to accompany the applicant to attend the proceedings on each date at Pune.

5. The learned counsel for the applicant, in support of his contention that, the convenience of wife has to be given priority specifically when there are other proceedings pending at the instance of wife, relied on the following citations:-

1) *Rajani Kishor Pardeshi V/s. Kishor Babulal pardeshi [(2005) 12 SCC 237]*

2) *N.C.V. Aishwarya V/s. A.S.Saravana Karthik Sha [2022 SCC OnLine SC 1199]*

3) *D. Raja Rajeswari V/s. R. Sathish Kumar [(2022) 2 SCC 329]*

4) *Mrs. Bhagyashree W/o. Parag Bhat Nee V/s. Shri Parag S/o. Shirish Bhat [Order of this Court in MCA No. 50/2023, D/d. on 02/08/2023]*

5) *Devika Dhiraj Patil V/s. Dhiraj Sunil Patil [Judgment of this Court in MCA No. 167/2023, D/d. on 08/09/2023]*

6) *Sangamitra W/o. Ramakant [2009(1) Mh.L.J. 303]*

7) *Nazir V/s. State of Mah. [2009(1) Mh.L.J. 311]*

6. The learned counsel for the non-applicant vehemently opposed the application and relied on ***Krishna Veni Nagam V/s. Harish Nagam reported in (2017) 4 SCC 150***

specifically emphasised observations as laid down in para 14, which reads as under:-

“14. One cannot ignore the problem faced by a husband if proceedings are transferred on account of genuine difficulties faced by the wife. The husband may find it difficult to contest proceedings at a place which is convenient to the wife. Thus, transfer is not always a solution acceptable to both the parties. It may be appropriate that available technology of videoconferencing is used where both the parties have equal difficulty and there is no place which is convenient to both the parties. We understand that in every district in the country videoconferencing is now available. In any case, wherever such facility is available, it ought to be fully utilized and all the High Courts ought to issue appropriate administrative instructions to regulate the use of videoconferencing for certain category of cases. Matrimonial cases where one of the parties resides outside court’s jurisdiction is one of such categories. Wherever one or both the parties make a request for use of videoconference, proceedings may be conducted on videoconferencing, obviating the needs of the party to appear in person. In several cases, this Court has directed recording of evidence by videoconferencing¹³.”

7. The learned counsel for the applicant pointed out that, even in the **Krishna Veni Nagam** (supra), on which the learned counsel for the non-applicant relied, in the said matter also, the proceedings were transferred to the court where the wife

was residing and the parties allowed to appear through Video Conferencing wherever the facilities are available.

8. In my considered opinion, the proceedings at Darwha was initiated by the wife earlier to the proceedings initiated by the non-applicant/husband. The possibility of conflictory judgment cannot be ruled out. The distance between Pune to Darwha is 600 km. It appears that the greater hardship and inconvenience would cause to the wife/ applicant if she would require to attend the matter at Pune. So also, considering the medical issue with regard to the father of the applicant, it would be appropriate and in the interest of justice to transfer the Marriage Petition No. A/551/2023 pending on the file of learned Family Court No. 2, Pune to learned Civil Judge, Senior Division, Darwha, Dist. Yavatmal so that the multiplicity of proceedings can also be avoided. Accordingly, I proceed to pass the following order:-

ORDER

- 1) The application is allowed.
- 2) The Marriage Petition No. A/551/2023 pending on the file of learned Family Court No. 2, Pune is hereby

withdrawn and transferred to learned Civil Judge, Senior Division, Darwha, District Yavatmal.

3) The learned Principal Judge, Family Court, Pune is hereby requested to facilitate the said transfer.

4) The permission is granted to the non-applicant to appear in the matter before learned Civil Judge, Senior Division, Darwha, District Yavatmal through Video Conferencing, if his personal attendance is not required by the Court.

5) Accordingly, the application stands disposed of.

[SMT. M.S. JAWALKAR, J.]

B.T.Khapekar