

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

CIVIL APPLICATION (CAO) NO. 648/2023 IN
MISC. CIVIL APPLICATION (TR) NO. 23/2023

Sau. Aarti Vinod Ingole V/s Vinod Bhanudas Ingole

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

Court's or Judge's Order

Mr Anzar B. Mirza, advocate for the applicant.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 26/04/2023.

1. The present application is filed by the applicant to amend the prayer clause.
2. Mr Anzar B. Mirza, learned advocate for the applicant submitted that by this application the seeking transfer of the matrimonial proceedings from the Civil Judge, Senior Division, Akot to the learned Civil Judge, Senior Division, Anjangaon Surji. However, she learned that there is no Civil Judge, Senior Division working at Anjangaon Surji and in view of that, permission is sought to amend the application.
3. In view of the above and the ground mentioned in the application, permission is granted to amend the application.
4. Civil is disposed of. Applicant to carry out the amendment forthwith.

Misc. Civil Application (TR) No. 23/2023

1. The present application is for seeking transfer of the matrimonial proceedings bearing H.M.P. no. 144/2019 pending before the learned Civil Judge, Senior Division, Akot to the learned Civil Judge, Senior Division, Achalpur.
2. The ground raised by the applicant is that her marriage with the non-applicant was solemnized on 02/05/2018. After marriage, she resumed cohabitation but some matrimonial dispute arose between them and she was constrained to leave matrimonial house. After she left the matrimonial house, the non-applicant has not made any provision for her livelihood.
3. She is serving as a teacher and it is difficult for her to attend the proceedings by taking leave on each and every date. The distance between the Kapustalni Tq. Anjangaon, Dist. Amravati and Akot is near about 90 k.m. One proceeding bearing No. MJC No. 10/2020 is already transferred from the learned Additional District Judge, Akot to the learned District Judge, Achalpur. Thus, non applicant is attending the proceeding at Achalpur, no prejudice will be caused to the non-applicant to attend the proceedings.

4. Notice of the said application is already served on the non-applicant through Registered Post. The acknowledgment of R.P.A.D. is shows that he received the said notice. However, he failed to appear. The track report also shows that the item was delivered to the addressee.

5. Heard Mr Anzar B. Mirza, learned advocate for the applicant. He reiterated the contentions and submits that one proceedings is already pending in the Court of the learned District Judge Achalpur, so, no prejudice will be caused to the non-applicant to attend the proceedings. In fact, inconvenience is caused to the applicant as she is serving as a teacher. As she to attend the proceedings at Akot which is at a distance of 90 Km from her village. Being she is a teacher, she has to obtain leave to attend the proceedings. However, his proceedings is transferred to Achalpur, it will be inconvenient for her to attend the proceeding and litigate the cause.

6. The application is supported by copies of the proceedings filed at Akot. It is well settled that while considering the transfer application in matrimonial matters. The inconvenience of the applicant is to be taken into consideration as one proceedings is already transferred at Achalpur from Akot, no prejudice will be

caused to the non-applicant to attend the another proceedings at Achalpur.

7. Considering all these aspects, it will be in the interest of justice and considering the convenience of the applicant/wife to transfer the matrimonial proceedings from the Civil Judge, Senior Division, Akot to the learned Civil Judge, Senior Division, Achalpur. In view of the above, I proceed to pass the following order:

- a) The Misc. Civil Application is **allowed**.
- b) In view of the above reason and in the interest of justice, the proceedings pending before the Family Court Akot bearing H.M.P No. 144/2019 be transferred to the learned Civil Judge, Senior Division, Achalpur for adjudication.
- c) The parties to appear before the learned Civil Judge, Senior Division, Achalpur on 06/06/2023.
- d) The record and proceedings of H.M.P No. 144/2019 be sent to the learned Civil Judge, Senior Division, Achalpur.

JUDGE