

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

MISC. CIVIL APPLICATION (TR) NO.748/2022

Neelam @ Siddhi w/o Rajesh Wadhwani
Vs.
Rajesh s/o Sanjay Wadhwani

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

Court's or Judge's orders

Mr. V. R. Thote, Advocate for the applicant.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 02/03/2023

1. Present application is filed by the applicant for seeking transfer of matrimonial proceeding A/665/2022 pending before the Family Court, Nagpur to the Family Court, Bhandara.

2. As per the contention of the applicant, she is the legally wedded wife of the non-applicant and their marriage was performed on 14.12.2017. After marriage she resumed cohabitation, however non-applicant has not treated her well, and therefore she constrained to leave matrimonial house. Now, she is residing at the mercy of her parents. Recently her father also expired and she is residing along with her mother. She is staying at Tumsar which is 20 Km away from Bhandara. She has also filed an application under Section 125 of Cr. P.C. for grant of maintenance which is pending before the

Judicial Magistrate First Class, Tumsar. Now, the non-applicant has filed petition No.A/665/2022 before the Family Court, Nagpur. This petition is filed only to harass the applicant – wife who is residing at about 90 Km from the Family Court, Nagpur. As per contention of the applicant, she is having three years old daughter, her mother is old aged and there is nobody to look after the child in her absence whenever she attends the proceeding. Hence, the proceeding which is filed in the Family Court, Nagpur be transferred to Family Court Bhandara.

3. Notice of the said application is served on the non-applicant. Though notice served and opportunity is granted to him, non-applicant failed to appear and not contested the application.

4. Heard learned Advocate Mr. Thote for the applicant. He reiterated the contentions raised in the application. The applicant is residing at Tumsar which is 20 Km away from Bhandara. Distance between Tumsar to Nagpur is 90 Km. Recently, applicant has lost her father. Thus, there is nobody to escort her to attend the proceeding at Nagpur. Moreover, there is nobody to look after her daughter, if she keeps her daughter at home along with the mother as her mother is old aged. As she has already filed the application for grant of maintenance, but the non-applicant has not made any

provisions for her maintenance. Therefore, she is unable to bear the cost of the litigation. Considering that applicant has no source of income and she is unable to bear the cost of the litigation as well as she is having three years daughter and nobody is there to look after the daughter in absence of the applicant. The convenience of the applicant – wife has to be looked into. In view of that application deserves to be allowed. Hence, I proceed to pass following order.

ORDER

- (i) The Misc. Civil Application is allowed.
- (ii) The matrimonial proceeding No.A/665/2022 pending before the Family Court No.4, Nagpur be transferred to the Family Court, Bhandara.
- (iii) The Family Court No.4, Nagpur shall send record and proceedings to the Family Court, Bhandara for adjudication.
- (iv) The parties to remain present before the Family Court, Bhandara on 18.03.2023.
- (v) Misc. Civil Application is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate