

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

MISC. CIVIL APPLICATION (TR.) NO.626 OF 2022

Mrs. Pallavi w/o Mayur Bhandarkar
Vs.
Mayur Vinod Bhandarkar

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

Court's or Judge's orders

Ms. Priyanka R. Arbat (Awathale), Advocate for applicant (appointed).

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 20/03/2023

1. This application is filed under Section 24 of the Code of Civil Procedure for seeking transfer of the Marriage Petition No.2/2022 pending before the Principal District Judge, Bhandara to the Court of Principal District Judge, Wardha.

2. The petition is filed under the Special Marriage Act. As per contention of the applicant, she is legally wedded wife of the non-applicant and their marriage was solemnized on 14.6.2019. After marriage, though she resumed the cohabitation, she was not treated well and was subjected for mental torture and physical assault at the hands of the non-applicant. Therefore, she constrained to leave matrimonial house. Now, she is residing at the mercy of her old parents. She had already filed an application under Section 125 of the

Code of Criminal Procedure for maintenance and also filed application for restitution of conjugal rights bearing Civil Suit No.234/2020 pending before the Principal District Judge, Wardha.

3. Learned Advocate for the applicant submitted that now the non-applicant had preferred an application bearing Marriage Petition No.2/2022 for dissolution of marriage. The distance between Wardha to Bhandara is more than 150 Km. Moreover, two applications are already pending at Wardha and non-applicant is attending the said proceeding. So, no prejudice will be caused to him, if the matrimonial proceeding is transferred from Bhandara to Wardha. The applicant further raised the ground that as her parents are old aged and there is nobody to escort her to attend the proceeding, hence the matrimonial proceeding filed by the non-applicant be transferred to the Court of Principal District Judge, Wardha.

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

5. Heard learned Advocate for the applicant. Perused the application.

6. It reveals that the distance between

Bhandara to Wardha is about 150 Km and the applicant is residing at the mercy of her old parents. There is nobody to escort her to attend the proceedings at Bhandara. Moreover, one proceeding for restitution of conjugal rights is already pending before the Principal District Judge, Wardha. If both the petitions are tried and adjudicated by one and the same Judge, there would not be conflicting decision.

7. Considering all above reasons, it will be appropriate, just and proper to transfer the Special Marriage Petition No.2/2022 pending before the Principal District Judge, Bhandara to the Court of Principal District Judge, Wardha. At the same time, it is settled law that while considering the transfer application in matrimonial proceeding the convenience of the wife is to be looked into.

8. For all above reasons, Misc. Civil Application is allowed. The Special Marriage Petition No.2/2022 pending before the Principal District Judge, Bhandara be transferred to the Court of Principal District Judge, Wardha, for adjudication.

9. The parties shall appear before the Principal District Judge, Wardha on 15/04/2023.

10. The Principal District Judge, Bhandara shall

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send record and proceeding to the Court of Principal District Judge, Wardha, for adjudication.

(URMILA JOSHI-PHALKE, J.)

Sarkate