

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

MISC. CIVIL APPLICATION NO. 588 OF 2022

Sau. Gauri Kaviraj Pachkawade

..VS..

Kaviraj Rambhau Pachkawade

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

Court's or Judge's orders

Mr. Dhiraj Ailani, Advocate for applicant.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : FEBRUARY 03, 2023

By preferring this application the applicant wife is seeking transfer of matrimonial proceedings bearing No. A-233 of 2022 filed by the non-applicant for divorce and pending before the Family Court Amravati to Family Court, Akola.

2. As per contention of the applicant that her marriage with the non-applicant was solemnized on 25.03.2019. After marriage she resumed cohabitation with non-applicant however, she was not treated well and she constrained to leave matrimonial house. Now she is residing the mercy of her parents. After she has deserted by the non-applicant, non-applicant is not made any provision for her maintenance and she is unable to bear the costs of litigation. It is further submitted that she has filed Application under Section 12 read with Sections 18, 19, 20, 22 and 23 of the Protection of Women from

Domestic Violence Act, 2005 for monetary relief pending in the Court of Chief Judicial Magistrate, Akola and another Application under Section 125 of the Code of Criminal Procedure is also pending in the Family Court, Akola. Thus, two proceedings are pending and non-applicant is attending both the proceedings. It is further contended that the Family Court at Akola is convenient place for both the applicant as well as non-applicant and hence the matter be transferred to the Family Court, Akola.

3. Notice of the said Application though served on the non-applicant, the non-applicant failed to appear. One last opportunity was granted to him but he had not availed the same and remained absent.

4. Heard learned Advocate Mr. Dhiraj Ailani for the applicant. He reiterated the said contentions and submitted that considering the convenience of the applicant in matrimonial proceedings, the matrimonial proceedings be transferred to the Family Court, Akola. In support of his contention, he places reliance of ***N.C.V Aishwarya Vs. A.S. Saravana Karthik Sha***, reported in **2022 LiveLaw (SC) 627**, wherein the Hon'ble Apex Court has held that, "the cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the

economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socioeconomic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.

Further, when two or more proceedings are pending in different Courts between the same parties which raise common question of fact and law, and when the decisions in the cases are interdependent, it is desirable that they should be tried together by the same Judge so as to avoid multiplicity in trial of the same issues and conflict of decisions”.

5. As noticed above, the applicant is a young lady staying along with her parents at Akola and more two proceedings are already pending at Akola thus, Akola is a convenient place for both the applicant as well as non-applicant. In view of that the Application deserves to be allowed.

6. The matrimonial proceedings bearing No. A-233 of 2022 pending in the Court of Family Court, Amravati is transferred to the Family Court, Akola for disposal.

7. Parties to appear before the Family Court, Akola on 28.02.2023.

The Misc. Civil Application No. 588 of 2022 is disposed of.

(URMILA JOSHI-PHALKE, J.)

Kirtak