

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

MISC. CIVIL APPLICATION NO. 587 OF 2022

Ravina Anil Makwana

..VS..

Anil Suresh Makwana

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

Court's or Judge's orders

Mr. Ranjeet Singh V. Gahilot, Advocate for applicant.
Mr. Yusuf Jameel Sheikh, Advocate for non-applicant.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : APRIL 13, 2023

Present application is filed for seeking the transfer under Section 24 of the Code of Civil Procedure for transferring Marriage Petition No. 290 of 2022 pending before the 4th Joint Civil Judge, Senior Division, Aurangabad to Principal Judge, Family Court, Buldhana.

2. As per contention of the applicant, she is the legally wedded wife of non-applicant. Their marriage solemnized on 17.6.2020. After marriage she resumed cohabitation at the house of the non-applicant but she was not treated well and therefore, she constrained to leave the matrimonial house. After she left the matrimonial house, the non-applicant has not made any provision for her maintenance and therefore, she filed the petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005 for monetary relief. She had also filed an application for grant of maintenance under Section 125 of the Code of Criminal Procedure. Till today she has not received any

maintenance amount for her survival. It is further contention of the applicant is that as she has no source of income, she is unable to bear the costs of litigation. Moreover, she has to travel 160 kms. to attend the proceeding which is inconvenient for her. There is nobody to escort her to attend the proceeding. If all the proceedings are transferred at Buldhana, it will be convenient for her to attend all the proceedings as she is doing the work as a maidservant. If she has to attend the proceeding at Aurangabad, she has to spent whole day and she will lose whatever meager income she is earning. For all above these grounds, she claimed transfer of the proceeding filed by the non-applicant from Aurangabad to Buldhana.

3. The application is strongly opposed by the non-applicant on the ground that the application is filed on the baseless grounds. The distance between the two cities is only 130 kms. The non-applicant is ready to incur the expenses towards the travelling expenses and therefore, the application deserves to be rejected.

4. Heard learned Advocate Mr. Gahilot for the applicant and learned Advocate Mr. Y.U. Sheikh for the non-applicant. Perused the application.

5. It is not in dispute that two proceedings are filed by the applicant at Buldhana in the Court of Judicial Magistrate, First Class, whereas one proceeding is pending filed by the non-applicant at Civil Judge, Senior Division, Aurangabad. All the proceedings are out of

matrimonial relationship between both the parties. There is no dispute that the applicant is residing at Buldhana at the mercy of her parents. Though she had filed proceeding under Domestic Violence Act as well as 125 of the Cr.P.C., still no provision is made for her maintenance therefore, she is unable to incur the expenses. Though the non-applicant has shown his willingness to incur the expenses towards the travelling expenses, however, there is nobody to escort her to attend the proceeding at Aurangabad. The Applicant is doing the work as a maidservant, if she attends the proceeding at Aurangabad, she will lose that work also. The Hon'ble Apex Court has considered the aspects of convenience in the case of ***N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha, AIR 2022 SC 4318*** and observed 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 socio-economic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.

6. As noticed above, the applicant is a young lady of 21 years doing the work as a maidservant, if she compelled to attend the proceeding at Aurangabad, definitely she would lose her work from which she is earning a meager amount for her survival. Under the above circumstances, it is difficult her to travel from Buldhana to Aurangabad to attend the Court proceeding filed by the non-applicant under the Hindu Marriage Act. Under such circumstances, it is just and proper to transfer the proceeding which is pending in the Court of 4th Joint Civil Judge, Senior Division, Aurangabad bearing No. 290/2022 to the Principal Judge, Family Court, Buldhana.

7. In view of that, I proceed to pass the following order:

- (i) The Civil Application No.587 of 2022 is allowed.
- (ii) Hindu Marriage Petition No.290/2022 pending in the Court of 4th Joint Civil Judge, Senior Division, Aurangabad be transferred to the Principal Judge, Family Court, Buldhana.
- (iii) The 4th Joint Civil Judge, Senior Division, Aurangabad shall sent the record and proceeding to the Principal Judge, Family Court, Buldhana.
- (iv) The parties to appear before the Principal Judge, Family Court, Buldhana on 26.04.2023.

(URMILA JOSHI-PHALKE, J.)