

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

MISC. CIVIL APPLICATION (TR.) NO.794 OF 2022

Sau. Nilima Janardhan Birkad

Vs.

Janardhan Ranuji Birkad

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

Court's or Judge's orders

Mr. Mahesh Rai, Advocate for the applicant.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 21/02/2023

1. By preferring this application, the applicant – wife is seeking transfer of Hindu Marriage Petition No.84/2022 pending in the Court of Civil Judge Senior Division, Hinganghat, District Wardha to the Civil Judge, Senior Division, Wardha for trial.

2. In view of Section 24 of the Code of Civil Procedure, Principal District Judge has same powers as of this Court, and therefore appropriate Forum will be the Principal District Judge.

3. Learned Advocate Mr. Rai, submitted that now the petition is fixed for recording the evidence and the non-applicant has already filed affidavit of examination-in-chief, if matter proceeds, then there is every possibility that adverse orders will be passed against the present applicant. In view of that till filing of the application before the

learned Principal District Judge, Wardha the proceedings before the learned Civil Judge Senior Division, Hinganghat be stayed.

4. In view of the submissions, as the matrimonial proceedings No.84/2022 pending in the Court of Civil Judge Senior Division, Hinganghat is fixed for recording the evidence. Considering the affidavit of examination-in-chief which is already filed, there is likelihood that adverse orders can be passed, and therefore no purpose will be served by filing the transfer application. In view of that, till the applicant files the transfer application before the learned Principal District Judge, the learned Civil Judge Senior Division, Hinganghat where the Hindu Marriage Petition No.84/2022 is pending shall not proceed with the further proceedings till the applicant files the appropriate application before the learned Principal District Judge, Wardha.

5. Misc. Civil Application is disposed of on the basis of statement made by the learned Advocate Mr. Mahesh Rai and permission to withdraw the same is granted with liberty to file the transfer application before the learned Principal District Judge, Wardha.

(URMILA JOSHI-PHALKE, J.)

Sarkate