

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

MISC. CIVIL APPLICATION NO. 649/2021

Sou. Sarika W/O Shailesh Karemore Vs Shailesh S/O Marotrao Karemore

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Harnish Rajesh Gadhia, for the applicant.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 22/02/2023.

1. Heard.
2. By preferring this application, the applicant/wife is seeking transfer of the matrimonial proceedings bearing No. A-894/2021 pending in the Court of Family Court, Nagpur (Urban) to Family Court, Bhandara.
3. As per the contention of the applicant, she is the legally wedded wife of the non-applicant and her marriage was performed on 21/04/2019. After marriage, she resumed cohabitation but she was not treated well by the non-applicant/husband and therefore, she preferred the proceedings for monetary relief under the provision of the Protection of Women from Domestic Violence Act bearing No. 37/2020 on 31/07/2020. The non-applicant appeared in the said proceedings and filed reply also. To give counter blast to the Domestic Violence Proceedings, he filed the proceedings under section 9 of the Hindu Marriage Act seeking restitution

of conjugal rights bearing No. A-894/2021 before the Family Court Nagpur.

4. As per the contention of the applicant that, intentionally to harass her the non-applicant, has filed application for restitution of conjugal rights before the Family Court. The one proceedings wherein the non-applicant is already appearing is pending in the Family Court, it will be appropriate if both proceedings are decided by one and the same Court.

5. It is further submitted that by her that attending the proceedings at Nagpur is inconvenient to her as she is residing at Bhandara along with her parents. There is nobody to escort her to attend the proceedings.

6. Moreover, though she had filed the proceedings for monetary reliefs, she has not received any relief from the Court and the non-applicant has also not made any provision for her maintenance. In view of that the matrimonial proceedings bearing No. 894/2021 be transferred to Family Court, Bhandara

7. Notice of the said application is served upon the non-applicant. Affidavit of service is filed on record after due service of the notice, non-applicant failed to appear and chosen not to contest the application.

8. Heard learned advocate Shri G.H. Ghadhiya for the applicant. He reiterated the contentions and

additionally he submitted that intentionally the proceedings is filed only to harass the applicant. In fact, non applicant is appearing in the proceedings which is filed by the wife/applicant in the Court of J.M.F.C. Bhandara.

9. He further submitted that, now it is settled law that wife convenience must be looked into matrimonial proceedings. In support of his contention he placed reliance on *Sumita Singh V/s Kumar Sanjay*¹. Wherein also it is held that wife's convenience must be looked at in matrimonial proceedings. Recently also, in the case of *N.C.V. Aishwarya V/s A.S. Saravana Karthik Sha*² has held thus:-

“9. 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.”

1 AIR 2002 SC 396

2 2022 LiveLaw(SC)627

10. As noticed above, the applicant who is the young lady had already filed proceedings before the Judicial Magistrate First Class, Bhandara. It will be convenient for both the applicant as well as non-applicant to attend the proceedings at Bhandara. Considering the convenience of the wife, application deserves to be allowed. Hence, I pass the following order :

- a) The matrimonial proceedings bearing No. A-894/2022 be transferred to Family Court Bhandara from the Family Court Nagpur.
- b) The Presiding Officer, Family Court Nagpur shall sent the record and proceedings to the Family Court Bhandara for adjudication.
- c) The parties shall appear before the Family Court, Bhandara on 08/03/2023.

JUDGE