

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

MISC. CIVIL APPLICATION (TR.) NO. 811 OF 2022

Sau. Suchita Santosh Dongarwar alias Suchita Ramdas Bhople

...**VERSUS**...

Santosh Nagorao Dongarwar

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

Court's or Judge's order

Shri P.S.Patil, Advocate for applicant.

CORAM : URMILA JOSHI-PHALKE, J.

DATE : 24th JANUARY, 2023

1. Office note shows that the non-applicant is served, however, no one is appeared. To afford one more opportunity, the matter was listed after two weeks. Today also, none appears for the non-applicant.
2. By this application, the applicant-wife is seeking transfer of matrimonial proceedings bearing no. 72/2022 pending on the file of learned Family Court, Yavatmal to the learned Family Court, Amravati.
3. As per the contention of the applicant, she is serving in Maharashtra State Electricity Transmission Corporation Ltd. (MSEDCL) as an Operator. The distance between above two cities is near about 200 k.m. Her duty hours are not fixed. Therefore, it is difficult for her to attend the Court proceedings on each and every date. Therefore, she prayed for transfer of matrimonial proceedings to the Family Court at Amravati.
4. Though the notice of the present application is served upon

the non-applicant, he has chosen not to appear and not to contest the case.

5. Heard the learned counsel Shri P.S. Patil for the applicant. He reiterated the contentions as raised in the application and in addition to that, he submitted that the factual position is that the applicant has received a legal notice dated 30/01/2020 from the non-applicant stating that the applicant should join the company of the non-applicant and for that purpose, he insisted her to leave her job. Presently, the applicant does not want to raise any dispute about their marriage, however, the non-applicant is not ready to accommodate her along with her service. Now, the non-applicant is doing a private job and the applicant is in government job serving at Anjangaon Surji, her duty hours are also not fixed and therefore, it is difficult for her to attend the proceedings in Family Court, Yavatmal. The distance between the two cities is also more than 200 k.m. In the circumstances, for the convenience of the applicant, the matrimonial proceedings be transferred to Family Court, Amravati.

6. The notice of the said application is served upon the non-applicant. Though last opportunity was granted after service of the notice to the non-applicant to appear, he chosen not to appear and not to contest the case.

7. The reasons mentioned in the application appears to be justified one. It is already well settled by the catena of the decisions that, in the matrimonial proceedings, the convenience of the wife is to be considered while considering the transfer of application. Recently in the case of **N.C.V. Aishwarya V/s. A.S. Saravana Karthik Sha [in Civil Appeal No(S). 4894 of 2022]**, the Hon'ble Apex Court has

considered the issue 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 the matrimonial matters, wherever the 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 behaviour 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.*” It is further held by the Hon’ble Apex Court that “*it is the wife’s convenience which must be looked at while considering transfer*”.

8. In the above circumstances and in view of the fact that, as the applicant is serving and her duty hours are not fixed as well as in view of the observations of Hon’ble Apex Court that, the convenience of the wife is to be considered while considering the transfer application, the application deserves to be allowed. Hence, I proceed to pass the following order:-

ORDER

- 1) The application is allowed.
- 2) The marriage petition bearing no. 72/2022 pending in the learned Family Court, Yavatmal be transferred to the learned Family Court, Amravati for its final disposal.
- 3) According the civil application is disposed of.

(URMILA JOSHI-PHALKE, J.)