

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

MISC. CIVIL APPLICATION NO. 732 /2022

Kalyani D/O Gajanan Vyawhare @ Sau. Kalyani W/O Rahul Salunke

Vs

Atul S/O Damodar Zamre

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

Court's or Judge's Order

Mr S.N. Muley, Advocate for the applicant.

Mr V.B. Bhise, Advocate for the non-applicant.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 28/02/2023.

1. Heard.
2. By preferring this application, the applicant/wife is seeking transfer of the matrimonial proceedings bearing No. MJC No. 24/2022 pending before the Hon'ble District Judge-1 and Additional Sessions Judge-1 Akot to District Court, Mangrulpir.
3. As per the contention of the applicant, she was the legally wedded wife of the non-applicant and applicant No.2 is the daughter of the non-applicant. Subsequently, she performed her second marriage, and divorce decree is already passed in H.M.P. No. 73/2018 and the matrimonial relationship between the applicant and the non-applicant comes to end under the said divorce decree. Now, the applicant is having six months daughter from the second wedlock.

4. Now, the non-applicant has filed the application for custody of the small child i.e. applicant No.2 from applicant No.1 in the Court of District Judge Mangrulpir. The distance between the two places Mangrulpir and Akola is more than 100 kms. The applicant is having small daughter of six months, she has to look after applicant No.2 as well as her six months daughter therefore, it is difficult for her to attend the proceedings by travelling along with these two daughters. Considering the convenience of the applicant, MJC No. 24/2022 pending in the District Court Akot be transferred to District Court, Mangrulpir.

5. Said application is strongly opposed by the non-applicant on the ground that the application is filed on the baseless ground. The applicant has also filed the application for custody of the child which is pending at Mangrulpir.

6. Learned advocate for the non-applicant further submitted that the application filed by the applicant is groundless and hence deserves to be rejected.

7. Heard both the sides. Perused the application.

8. Undisputedly, applicant No.2 is aged about 8 years and the applicant is also having small daughter of 6 months. The distance between Mangrulpir to Akot is more than 100 km., If the applicant has to attend the proceeding at Akot then definitely she has to transfer

along with small two daughters which would be inconvenient for her. It is well settled that, while considering the matrimonial proceedings, the convenience of the wife is to be taken into consideration.

9. In the present case, it is quite difficult for the applicant to travel along with two daughters who are small. Moreover, if she travels along with applicant No.2, the schooling of applicant No.2 will be affected. In view of that, the application deserves to be allowed. Hence, I proceed to pass the following order:

- a) The Misc. Civil Application (Tr) No. 732/2022 is allowed.
- b) The matrimonial proceedings bearing No. M.J.C. No. 24/2022 pending before the District Judge-1 and Additional Sessions Judge-1, Akot be transferred to District Court Mangrulpir for disposal.
- c) The District Judge shall send all the record and proceedings in MJC No. 24/2022 to the District Court Mangrulpir.
- d) The parties shall appear before the District Court Mangrulpir on 16/03/2023.

JUDGE