

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

MISC. CIVIL APPLICATION (TR.) NO.724 OF 2022

Mrs. Pragati w/o Nandkishor Kshirsagar
Vs.
Mr. Nandkishor s/o Shrikrushna Kshirsagar

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

Court's or Judge's orders

Ms. Amruta A. Ghonge, Advocate for applicant.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 25/01/2023

1. By preferring this application, applicant - wife is seeking transfer of matrimonial proceedings i.e. Hindu Marriage Petition No.227 of 2022 pending before the Civil Judge Senior Division, Gondia to the Family Court, Nagpur.

2. The grounds raised by the applicant – wife is that she is legally wedded wife of non-applicant and their marriage was solemnized on 13.5.2018 at Nagpur. After marriage, she resumed cohabitation at the house of the non-applicant, but she was not treated well, and therefore she constrained to leave matrimonial house. Since then, she is residing at her parents' house. After the desertion by the non-applicant, non-applicant has not made any provisions for her maintenance. She is having small daughter of three years. She is residing at the mercy of her parents and there is nobody to escort her to

attend the proceedings at Gondia which is 140 Kms from Nagpur.

3. Though, the notice of this application is served on the non-applicant, but he did not appear. After service of notice, one last opportunity was granted to him to appear and contest the claim, but he has chosen not to appear and not to contest the claim.

4. Heard learned Advocate Ms. Ghonge for the applicant. She reiterated the contentions raised in the application, in addition to that, she submitted that the applicant is having small daughter of three years and it is difficult for her to attend the proceedings by keeping her daughter at Nagpur. She had no relatives at Gondia as well as she is unable to bear the cost of the litigation as no provision is made by the non-applicant by her maintenance.

5. In support of her contention, she produced on record Roznama of the proceedings which is filed by the applicant, shows that though non-applicant has appeared in the said proceedings, though orders as to the maintenance are passed by the Court.

6. In support of contentions, she also placed reliance on the decision of the Hon'ble Apex Court **N.C.V. Aishwarya vs. A. S. Saravana Karthik Sha** reported in

MANU/SC/1211/2022 wherein Hon'ble Apex Court while dealing with the transfer application by wife observed that.

“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 socio-economic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.”

7. She further relied upon the judgment of this Court in **Mukta alias Lata w/o Sachin Chide Vs. Sachin s/o Kamlakar Chide** reported in **2015 (5) Mh.L.J. 848** wherein also the issue regarding the inconvenience of the wife in attending the proceedings was considered. Lastly, she relied upon the decision of this Court in **Sangamitra w/o Ramakant Royalwar vs. Ramakant s/o Gangaram Royalwar** reported in **2008(6) ALL MR 1** wherein also the inconvenience of the wife is considered.

8. After hearing the learned Advocate for the applicant and after considering the grounds mentioned in the application as well as the observations laid down by the Hon'ble Apex Court as well as this Court in two decisions, on which learned Advocate relied upon. Here also the applicant is a young lady having small daughter of three years. Non-applicant has not made any provisions for her maintenance and it is difficult for her to bear the cost of the litigation by attending the proceedings at Gondia. Moreover, she is residing at the mercy of her parents and there is nobody to escort her to attend the proceedings.

9. In view of the above circumstances, the application deserves to be allowed by transferring the Hindu Marriage Petition to the Family Court, Nagpur. Hence, I proceed to pass the following order.

ORDER

(i) Misc. Civil Application No.724 of 2022 is allowed.

(ii) The Hindu Marriage Petition No.227 of 2022 pending in the Court of Civil Judge Senior Division, Gondia, is transferred to the Family Court, Nagpur.

(URMILA JOSHI-PHALKE, J.)