

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

MISC. CIVIL APPLICATION NO.738 OF 2022

(Sau. Abhilasha w/o Suyash Jajoo Vs. Suyash s/o Somnath Jajoo)

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

Court's or Judge's Order

Ms PB. Jinde, Advocate for the applicant.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- JANUARY 30, 2023.

Heard.

2. By this application, the applicant is seeking transfer of matrimonial proceedings bearing No. A-462/2021 pending in the Family Court, Nashik to the Family Court, Amravati.

3. As per the contention of the applicant, her marriage with the non-applicant was solemnized on 10/07/2016 at Nashik. 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. She was residing at the mercy of her parents however, on 15/06/2020 her father died during Covid pandemic. Now she is residing along with her mother. No male member is available in her family. After desertion, non-applicant has not made any provision for her maintenance. Moreover, the distance between the Nashik and Amravati is more than 600 kilometers. It is difficult for her to attend the proceeding at Nashik by travelling all alone. She further submitted that as the

non-applicant has not made any provision for her maintenance she is unable to bear the cost of litigation.

4. Though notice of the application is served on the non-applicant he has chosen not to appear and not to contest the application. After service of notice one more opportunity was granted to the non-applicant but he failed to appear and contesting the application.

5. Heard Ms Jinde, learned Counsel for the applicant. Perused the application. As per the statement made in the application, the applicant is residing along with her mother. Her father died on 15/06/2020. The non-applicant has chosen not to contest the application. It is also apparent that non-applicant has not made any provision for her maintenance or for her livelihood and as she has no source of income, she is unable to bear the cost of litigation. The contention of the applicant that no provision for her maintenance is made by the non-applicant as well as the distance between the two places is more than 600 kilometers are to be considered. Recently, the Hon'ble Apex Court in the case of ***N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha*** (Civil Appeal No.4894/2022) by order dated 18/07/2022 dealt with this issue and held in paragraph No.9 as follows :

“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."

6. In view of above circumstances, the application deserves to be allowed. Hence, the following order :

- (i) The application is allowed.
- (ii) The matrimonial proceeding bearing No.A-462/2021 pending in the Family Court, Nashik is transferred to the Family Court, Amravati.

7. The application stands disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*