



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

WRIT PETITION NO. 6720 OF 2023

PETITIONER : Sujata W/o Jayendra Waghmare
Age : 37 years, Occup. : Housewife,
R/o : C/o : Sadashiv Vithoba Patil,
Saint Tukdoji Ward, Mukkam Post :
Hinganghat, District : Wardha

VERSUS

RESPONDENT : Jayendra s/o Ghanshyam Waghmare,
Age : 42 years, Occup. : Advocate
R/o Behind Old Devli Naka, Near Honda
Showroom, Devli Road, Dayal Nagar,
Wardha

Mr. R.D. Hajare, Advocate for the Petitioner
Mr. A.S. Moon, Advocate for Respondent

CORAM: AVINASH G. GHAROTE ,

J.

DATED : 16th OCTOBER, 2023

ORAL JUDGMENT :

Rule. Rule made returnable forthwith. Heard finally with the consent of learned counsel for the parties.

2. The petition challenges an order under Section 24 of the Code of Civil Procedure, whereby Hindu Marriage Petition No.215/2021, which is pending with Civil Judge, Senior Division, Wardha, has

been declined to be transferred to Civil Judge, Senior Division, Hinganghat. It is not disputed by Mr. Moon, learned counsel for the respondent, that domestic violence proceeding are already instituted at Hinganghat in which on receipt of notice, the respondent is appearing. He further contends, that the petitioner is already receiving expenses on account of transportation from Hinganghat to Wardha and, therefore, the application has been rightly rejected. Considering that the petitioner has already instituted proceedings under the Protection of Women from Domestic Violence Act at Hinganghat, it would be apt if Hindu Marriage Petition No. 215/2021 is also transferred to Hinganghat, where-in both of them, the respondent can appear conveniently. Merely because, the petitioner is receiving transportation charges that by itself cannot be a ground to reject the application as considering the petitioner has a small child of 5 years, it would be inconvenient for her to travel, whereas there is no such impediment about the respondent. Mr. Hajare, learned counsel for the petitioner, upon

instructions, makes a statement that the petitioner would not be claiming the transportation charges. The statement is accepted. Though judgment in the case of **Abhilasha Gupta Vs. Harimohan Gupta, Transfer Petition (Civil) No.1027/2021** decided on 24/09/2021 has been relied upon by Mr. Moon, learned counsel for the respondent, that merely indicates in para 20 the factors to be considered while deciding an application for transfer. Bearing those in mind and the convenience of the petitioner, who has a 5 year old child, in my considered opinion, the impugned order cannot be sustained and the same is hereby quashed and set aside and the application under Section 24 of the Code of Civil Procedure filed by the petitioner is allowed. The petition is allowed. Hindu Marriage Petition No.215/2021 pending on the file of 5th Jt. Civil Judge, Senior Division, Wardha is hereby transferred the Civil Judge, Senior Division, Hinganghat.

3. The parties shall appear before the Civil Judge, Senior Division, Hinganghat on 30th October, 2023, without any further notice. The petitioner shall

file a copy of this order before the 5th Jt. Civil Judge, Senior Division, Wardha to intimate the said Court regarding the transfer and so also enable the said Court to transmit the record and proceedings to the Civil Judge, Senior Division, Hinganghat well within time.

No costs.

Rule is made absolute in the above terms.

(AVINASH G. GHAROTE, J.)

MP Deshpande