

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

MISC. CIVIL APPLICATION (TR) NO. 817/2022

Sau. Prachi w/o Chandrakant Patil Vs Shri Chandrakant Raghavrao Patil

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

Court's or Judge's Order

Mr D.U. Thakare, advocate for the applicant.

Mr U.Y. Sonkusare, advocate for the non-applicant.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 21/04/2023.

1. Heard.
2. The present application is filed by the applicant /wife for seeking transfer of the matrimonial proceeding bearing petition No. A-1232/2022 pending before the Family Court-4, Nagpur to the learned Civil Judge, Senior Division, Wardha.
3. The transfer is sought on the ground that the applicant is residing at Wardha, and the proceeding is filed at Nagpur. The distance between the two cities is 80 k.ms. The further ground raised by the applicant is that she has already filed proceedings under the provisions of the Domestic Violence Act, wherein the non-applicant has put his appearance. So, no prejudice will be caused to the non-applicant, if both proceedings are tried at Wardha.

4. The said application has strongly opposed by the non-applicant on the ground that he had filed the proceedings for restitution of the conjugal rights. The distance between the two cities is only 80 kms. He is ready to incur the expenses towards the travelling of the applicant, no grounds are made out for transfer and hence, the application deserves to be rejected.

5. Heard both sides. Perused the application.

6. There is no dispute that the distance between the two cities is only 80 kms. At the same time, the facts on record show that she has filed application under the provisions of the Domestic Violence Act which is pending before the Judicial Magistrate First Class, Wardha, wherein the non-applicant has put his appearance and attended the proceedings.

7. The learned advocate for the applicant placed reliance in the case of *D.Raja Rajeshwari vs R. Sathish Kumar reported in (2022) 2 SCC 329*, wherein the Hon'ble Apex Court has considered the multiple proceedings between the same parties and held that transfer and consolidation of all proceedings before the one Court would be in the interest of justice and allowed the proceeding.

8. He further placed reliance in the case of *Divya Vs Rushikesh reported in II (2022) DMC 167*

(Bom.), wherein the convenience of the applicant/wife is taken into consideration and transfer application was allowed. He placed reliance in the case of *Sangamitra w/o Ramakant Royalwar Vs Ramakant s/o Gangaram Royalwar reported in 2009 (1) Mh.L.J.* and order of this Court in the case *MCA No. 743/2022* and lastly, he placed reliance in the case of *Arundhati Devendra Pathak vs Devendra Niteen Phatak in MCA No. 518/2022*, wherein this Court at the Principal Bench of Bombay considered that convenience of the applicant/wife is to be looked into. At the time same, even otherwise husband is required to attend the proceeding pending before the Criminals Court at Panvel and transferred the proceedings.

9. In the facts of the present case, undisputedly the applicant is residing at Wardha, she has also filed proceedings under the provision of the Domestic Violence Act, at Wardha. The non-applicant has put on his appearance and attended the proceedings at Wardha. Considering the distance between the two cities is 80 Kms and, as already one proceeding is pending at the Court of Judicial Magistrate First Class, Wardha, in which, the husband is required to attend the proceedings.

10. Considering all these aspects, it will be in the interest of justice and considering the convenience of the applicant/wife to transfer the matrimonial proceedings from Family Court Nagpur to the learned Civil Judge, Senior Division, Wardha. In view of the above, I proceed to pass the following order:

- a) The Misc. Civil Application is **allowed**.
- b) In view of the above reason and in the interest of justice, the proceedings pending before the Family Court Nagpur bearing No. A-1232/2022 be transferred to the learned Civil Judge, Senior Division, Wardha.
- c) The parties to appear before the Civil Judge, Senior Division, Wardha on 24/04/2023.
- d) The record and proceedings of Petition No. A-1232/2022 be sent to the learned Civil Judge, Senior Division, Wardha.
- e) The learned Civil Judge, Senior Division, Wardha shall consider the request of the non-applicant whenever it is made to attend the proceedings through video conferencing.

JUDGE