

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

MISC. CIVIL APPLICATION (TR) NO. 818/2022

Suchita W/o Rajesh Pundkar And Others Vs Rajesh S/O Himmatrao Pundkar

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

Court's or Judge's Order

Ms Kirti Satpute, advocate for the applicant.

Mr A.S. Londhe, advocate for the non-applicant.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 26/04/2023.

1. The present application is filed by the applicant/wife for transfer of the Civil M.A. No. 26/2022 which is filed by the non-applicant for grant of custody of applicant Nos. 2 and 3 under Section 25 of the Guardians and Wards Act, 1890.

2. The application is filed on the ground that the applicant is maintaining the applicant Nos. 2 and 3 as the non-applicant has deserted her. She was constrained to leave the matrimonial house and staying at the mercy of her parents. She had lodged the complaint under Section 498-A which is Criminal Application (APL) No. 233/2022 as well as she has filed the application for monetary relief under the provision of the Domestic Violence Act which is also pending in the Court of Civil Judge, Senior Division, Nagpur. The non-applicant has already put his

appearance in that matter. So, no prejudice will be caused to the non-applicant to attend the proceedings at Nagpur.

3. The applicant further contended that the distance between Nagpur to Akot is more than 239 Km., so it will be difficult for the applicant to attend the proceedings by keeping behind the applicant Nos. 2 and 3.

4. In response to the notice of this application, the non-applicant has no objection to transfer the proceeding from Akot to Nagpur. However, non-applicant has prayed that the interim custody prayer of the non-applicant be considered and directions be issued to the concerned Court to dispose of the interim application expeditiously.

5. Heard both the sides. Perused the application.

6. Considering the distance between Akot to Nagpur is about 239 Km and the non-applicant is attending the proceeding at Nagpur which is filed by the applicant under the Domestic Violence Act, no prejudice will be caused to the non-applicant. Moreover, the non-applicant has no objection to transfer the proceeding therefore, application deserves to be allowed. So far as the prayer of the non-applicant regarding expeditious disposal of the application for

interim custody is concerned, the concerned Court will take care of the same and the non-applicant is at liberty to pursue that application before the concerned Court.

7. In view of the reasons mentioned in the application and considering the non-applicant has no objection, the application deserves to be allowed. Hence, I proceed to pass the following order:

- a) The Misc. Civil Application is **allowed**.
- b) The Civil Misc. Application No. 26/2022 pending in the Court of District Judge-1, Akot be transferred to the learned Principal Judge, Family Court, Nagpur for adjudication and disposal.
- c) The parties to remain present before the learned Principal Judge, Family Court, Nagpur on 12/06/2023.
- d) The learned District Judge-1, Akot shall send the record and proceedings to learned Principal Judge, Family Court, Nagpur for adjudication.

JUDGE