

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

MISC. CIVIL APPLICATION (TR) NO.168 OF 2023

[Sau. Shilpa w/o Anand Kamble ..V/s.. Shri. Anand S/o Sharad Kamble]

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

Court's or Judge's order

Ms N. P. Dhoke, Adv. h/f Mr M. V. Rai, Advocate for Applicant.

CORAM : URMILA JOSHI-PHALKE, J.

DATE : 18th APRIL, 2023.

. By this application, the applicant - wife is seeking transfer of the matrimonial proceedings bearing HMP No.320 of 2020 pending before the Civil Judge Senior Division, Chandrapur to the Family Court at Solapur.

2. As per the contention of the applicant – wife, her marriage was solemnized on 26.12.2003 with the non-applicant - husband. After marriage, she resumed cohabitation, however, she was not treated well. Therefore, she filed a proceeding under Section 12 of the Domestic Violence Act, 2005, bearing No.959 of 2021 before the J.M.F.C., Solapur. It is further contended that now, non-applicant has preferred the Hindu Marriage Petition No.320 of 2020 for declaring the marriage as null and void, which is pending before the Court of Chandrapur. It is submitted that the applicant is residing at the mercy of her parents, as the non applicant has deserted her. Though, she has filed the proceeding for the monetary relief, yet no relief is granted in her favour. Non-applicant has also not made any provision for her maintenance or for her livelihood. The distance between Solapur to Chandrapur is more than 700 kms. Nobody is in the house to

escort her to attend the proceeding. She is also unable to bear the cost of litigation. It is difficult for her to travel all alone from Solapur to Chandrapur to attend the proceeding. For all above grounds, she claimed the transfer of the matrimonial proceeding from Chandrapur to Solapur. Though, notice served to the non-applicant, he failed to appear and preferred not to contest the matter.

3. Heard learned Advocate Ms Dhoke, holding for Mr M. V. Rai, learned Advocate for applicant. She reiterated the contentions and submitted that it is highly inconvenient for the applicant to attend the proceeding by travelling all alone 700 kms. There is nobody in the family to escort her to attend the proceeding. Moreover, she is unable to bear the cost of litigation. The application is supported by the copy of the Hindu Marriage Petition, which is filed in the Court of Civil Judge Senior Division, Chandrapur as well as the copy of the proceeding filed by the applicant – wife before the Judicial Magistrate First Class, Solapur. There is no dispute that the distance is more than 700 kms between two cities. It is also apparent that though, she has claimed the monetary relief from the non-applicant, no relief is granted in her favour. In the above circumstances, it is difficult for her to bear the cost of litigation, as she has to incur the expenses towards travelling, toward her stay etc. The non-applicant failed to appear in two said applications.

4. In view of the contentions raised by the applicant – wife and considering the convenience of the applicant, the application deserves to be allowed. It is well settled that while considering the transfer application in matrimonial matters, the convenience of

the applicant - wife is to be looked into.

5. In view of the above, the application deserves to be allowed, hence, I proceed to pass the following order :

ORDER

- i) The civil application is **allowed**.
 - ii) HMP No.320 of 2020 pending before the Civil Judge Senior Division, Chandrapur be transferred to the Family Court at Solapur for adjudication.
 - iii) The Civil Judge Senior Division, Chandrapur shall send the record and proceedings to the Family Court at Solapur for adjudication.
 - iv) The parties to appear before the Family Court at Solapur on 06.06.2023.
6. The civil application is disposed of.

JUDGE