

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

MISC. CIVIL APPLICATION (TRANSFER) NO.831/2022

Shweta w/o Mangesh Gavai

..VS..

Mangesh s/o Prabhakar Gavai

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

Court's or Judge's Order

.....
Ms Rashi Nagrare, Counsel for the Applicant-Wife.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 11/01/2023

1. By this application, the applicant-wife seeks transfer of Hindu Marriage Petition No.A-164/2022 pending on the file of Family Court at Jalna to learned Civil Judge Senior Division at Khamgaon, district Buldhana.

2. Learned counsel for the applicant-wife submits that marriage between the applicant-wife and the non-applicant/husband was performed on 21.11.2021. After the marriage, she resumed cohabitation. However, she was not treated well at her matrimonial house by the non-applicant/husband and his family members due to which she was constrained to leave her matrimonial house. Now, she is residing at her parental house at Khamgaon. The non-applicant/husband deserted her and after desertion, he had not made any provision for her maintenance. The applicant/wife has no income source and, therefore, she is unable to attend proceedings at Jalna which is at distance of about 150 kilometers. There is nobody to escort her to attend proceedings i.e. Hindu Marriage Petition No.A-

164/2022 pending on the file of Family Court at Jalna.

3. Notice on the said application is duly served on the non-applicant/husband. However, the non-applicant/husband chose not to appear before the Court. The non-applicant/husband had not made any provision for the applicant/wife. The applicant/wife is residing at her parental house at Khamgaon and distance between Khamgaon and Jalna is 150 kilometers. Parents of the applicant/wife are old aged and there is nobody to escort her to attend the proceedings.

4. Learned counsel for the applicant/wife placed reliance on the decision of the Honourable Apex Court in the case of **N.C.V. Aishwarya vs. A.S.Saravana Karthik Sha**, reported at **2022 SCC OnLine SC 1199** wherein the Honourable Apex Court held that 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.

5. Here also, the applicant/wife is staying at her parental

house at the mercy of her parents. Neither she has source of income nor she has been provided any pecuniary maintenance by the non-applicant/husband. Moreover, her parents are old aged and unable to accompany her to attend proceedings at Jalna. Hence, the application deserves to be allowed, as per order below:

ORDER

(1) The misc.civil application is **allowed**.

(2) Hindu Marriage Petition No.A-164/2022 pending on the file of Family Court at Jalna is transferred to learned Civil Judge Senior Division at Khamgaon, district Buldhana.

(3) The applicant/wife and the non-applicant/husband shall appear before the Court at Khamgaon on 8.2.2023.

The misc. civil application is **disposed** of accordingly.

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!

BHUSHAN
RANA
WANKHEDE

Digitally signed
by BHUSHAN
RANA
WANKHEDE
Date: 2023.01.12
11:09:23 +0530