

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

MISC. CIVIL APPLICATION NO.872 OF 2022

Smt. Priyanka W/o Pranav Agrawal Vs. Pranav S/o Sharad Agrawal

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

Court's or Judge's orders.

Ms Aarti Singh, Advocate for applicant.

CORAM : URMILA JOSHI-PHALKE, J.
DATE : JANUARY 18, 2023.

By this application, the applicant-wife is seeking transfer of the matrimonial proceedings from Family Court, Akola to Family Court, Nagpur on the ground that she is residing at the mercy of her father, who is old aged person. Though she has deserted by the non-applicant, he has not made provision for maintenance. She has no source of income and therefore she is unable to bear the cost of litigation. Moreover, distance between Akola to Nagpur is more than 250 kilometers and there is nobody to escort her from Nagpur to Akola to attend the matrimonial proceedings.

2. Though notice is served on the non-applicant, he chosen not appear and contest the application. After service of notice, one more opportunity was granted to the non-applicant for placing his appearance but he failed to appear.

3. Heard. Ms Aarti Singh, learned advocate for the applicant reiterated the contents made in the application and

in addition to that she submitted that distance between Akola and Nagpur is more than 250 kilometers. Father of the applicant is old aged person. The applicant is unable to attend the proceedings at Akola as nobody is there to escort her to Nagpur to Akola as well as she is unable to bear the cost of litigation.

4. In support of her contention, she relied on the reliance in the case of ***N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha*** reported in ***2022 SCC OnLine SC 1199***, wherein the Hon'ble Apex Court in paragraph 9 held as under:

“9. 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. Heard learned advocate for the applicant. Perused the application, which is supported by the copy of H.M.P. No.A-1476/2022, which is filed by the applicant against the

non-applicant in the Family Court, Nagpur as well as the copy of Petition No.A-312/2022 filed by the non-applicant in the Family Court, Akola. This application is not contested by the non-applicant. From the record, it is apparent that no provision is made by the non-applicant for her maintenance or any monetary relief after she was deserted. She has no source of income.

6. In view of the reasons mentioned in the application as well as in view of the observations made by Hon'ble Apex Court in *N.C.V. Aishwarya* (supra) that while considering the transfer application especially matrimonial proceeding, it is wife's convenience which must be looked into. The application deserves to be allowed.

7. The matrimonial proceeding bearing Petition No.A-312/2022 pending in the Family Court, Akola is transferred to Family Court, Nagpur.

8. The civil application stands disposed of.

JUDGE

Wagh