

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

MISC. CIVIL APPLICATION (TR) NO.36/2023

Payal Rajesh Saywan

..VS..

Vishal s/o Haridas Sakhare

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

Court's or Judge's Order

.....
Shri Adiba Shaikh, Counsel for the Applicant/Wife.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 16/02/2023

1. By this application, the applicant seeks transfer of Hindu Marriage Petition No.4/2022 pending before learned Civil Judge Senior Division at Gadchiroli to learned Civil Judge Senior Division at Amravati.

2. As per contention of the applicant, while she was taking education at Nagpur, she came in contact with the non-applicant and they both fall in love with each other. The non-applicant by preparing bogus and false document shown that her marriage with him was solemnized on 29.12.2020. In fact, the marriage was never solemnized with him. When she came to know about the said fact, she issued a legal notice through her Advocate to the non-applicant and reply was also given by the non-applicant through his Advocate to the said Notice. According to her, the non-applicant has taken undue advantage

of the relationship between them and she denied the marriage was solemnized between them. There is no relationship existed between them like husband and wife. However, the non-applicant/husband filed petition for restitution of conjugal rights at Gadchiroli. She is 22 years old and residing at Amravati. The distance between Amravati and Gadchiroli is more than 350 kilometers. There is nobody to escort her to Gadchiroli for attending proceeding. She, therefore, prays that the petition filed by the non-applicant for restitution of conjugal rights be transferred to Amravati.

3. Heard learned counsel Shri Adiba Shaikh for the applicant. Though Notice of this application was served upon the non-applicant, he chose not to remain present before this Court despite he was given an opportunity, as a last chance, to put his case.

4. Having heard learned counsel for the applicant and perused the application, I find that she is 22 years young lady and residing at Amravati. The distance between Amravati and Gadchiroli is more than 350 kilometers. There is nobody to escort her to Gadchiroli for attending proceeding and, therefore, it difficult for her to travell all alone from Amravati to Gadchiroli.

5. It is a well settled position of law that while considering applications for transfer, convenience of wife is to be looked into. Recently, the issue of inconvenience has been dealt with by the Honourable Apex Court in the case of NCV Aishwarya vs. A.S.Saravana Karthik Sha in Civil Application No(S). 4894/2022 decided on 18.7.2022 wherein the Honourable Apex observed 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. When two or more proceedings are pending in different Courts between the same parties which raise common question of fact and law, and when

the decisions in the cases are interdependent, it is desirable that they should be tried together by the same Judge so as to avoid multiplicity in trial of the same issues and conflict of decisions.

6. Hence, in the present case, the applicant has denied her marriage. The proceeding is matrimonial in nature.

7. In view of observations in the case cited *supra* and taking into consideration the convenience of the applicant, the application deserves to be allowed as per order below:

ORDER

(1) The Misc. Civil Application is **allowed**.

(2) Hindu Marriage Petition No.4/2022 pending before learned Civil Judge Senior Division at Gadchiroli be transferred to learned Civil Judge Senior Division at Amravati.

(3) The parties shall appear before learned Judge at Amravati on 15.3.2023.

With this, the Misc. Civil Application is **disposed** of.

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!

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