

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

MISC.CIVIL APPLICATION (TRANSFER) NO.19/2023

Mrs.Neha w/o Harshad Giri

..VS..

Harshad s/o Arun Giri

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

Court's or Judge's Order

.....
Shri S.M.Bahirwar, Counsel for the Applicant/Wife.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 03/03/2023

1. Learned counsel Shri S.M.Bahirwar is present for the applicant/wife. He has filed Pursis informing that though Notice was sent to the non-applicant/husband by RPAD, E-mail, WhatsApp, and by Court Bailiff, the non-applicant/husband has not claimed the Notice by RPAD. Notice served by other modes appears to be noticed by the the non-applicant/husband.

2. By this application, the applicant/wife seeks transfer of matrimonial proceeding bearing HMP No.B-11/2022 pending before learned Judge of the Family Court at Nashik to learned Judge of the Family Court at Nagpur.

3. Learned counsel Shri S.M.Bahirwar for the applicant/wife submits that the applicant is legally wedded wife of the non-applicant/husband and their marriage was solemnized 7.2.2022. After the marriage, she resumed cohabitation. However, she was not treated well. She was constrained to leave her matrimonial house. Now, she is staying at the mercy

of her parents at Nagpur. The non-applicant/husband filed proceeding against her for divorce which is pending before learned Judge of the Family Court at Nashik. After she was deserted by the non-applicant/husband, no monetary provision has been made her available for her livelihood. The distance between Nashik and Nagpur is more than 600 kilometers. The applicant/wife is not having any source of income. It is very difficult for her to travell all alone from Nagpur to Nashik to attend the proceeding at Nashik. As the non-applicant/husband has not made any maintenance, she is unable to bear expenses of litigation. It is submitted that taking into considering convenience of the wife, matrimonial proceeding bearing HMP No.B-11/2022 pending before learned Judge of the Family Court at Nashik be transferred to learned Judge of the Family Court at Nagpur.

Hence, this application.

4. Heard learned counsel Shri S.M.Bahirwar for the applicant/wife. Though the non-applicant/husband is served, he chose not to appear and contest the matter.

5. Learned counsel for the applicant/wife reiterates contentions as pleaded in the application and prays that taking into consideration convenience of wife, matrimonial proceeding by the non-applicant/husband be transferred to learned Judge

of the Family Court at Nagpur.

6. It is apparent that the non-applicant/husband has filed matrimonial proceeding before learned Judge of the Family Court at Nashik. The distance between Nashik and Nagpur is more than 600 kilometers. The applicant/wife is 29 years young lady. Though she filed proceeding for grant of maintenance, she has not received any relief from the Court and as such she is unable to bear expenses of litigation. She is residing at the mercy of her parents at Nagpur and there is nobody to escort her to Nashik.

7. 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.

8. As noticed above and as the applicant/wife has already filed proceeding for maintenance at Nagpur and she is young lady and unable to attend proceeding at Nashik, the present application deserves to be allowed. Hence, I pass following order:

ORDER

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

(2) The matrimonial proceeding bearing HMP No.B-11/2022 filed by the non-applicant/husband pending before learned Judge of

the Family Court at Nashik be transferred to learned Judge of the Family Court at Nagpur.

(3) The parties shall appear before learned Judge of the Family Court at Nagpur on 24.3.2023.

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

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!

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