



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

Civil Application [MCA] No.101 of 2024

Pranju W/o Rahul Thembre vs. Rahul S/o Revaram Thembre

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

Court's or Judge's Orders

Mr. A.Z. Gharde, Advocate for the Applicant.

Mrs. S.V. Taksande, Advocate for the Non-Applicant.

CORAM : M.W. CHANDWANI, J.

DATE : 29th FEBRUARY, 2024.

Heard the learned Counsel appearing for the parties.

02] By invoking the jurisdiction of this Court under Section 24 of the Code of Civil Procedure, the applicant seeks transfer of Petition No. D-41/2023 pending on the file of the Family Court at Nagpur to the Court of Civil Judge Senior Division, Wardha.

03] The applicant is the wife of the non-applicant. Out of said wedlock, they are having a son, aged about 3½ years. Due to matrimonial dispute, the applicant is compelled to reside along with her minor son at her parental house at Wardha.

04] The applicant filed an application under Section 12 read with Sections 18, 19, 20, 21 and 23 of the Protection of Women from Domestic Violence Act, 2005 against non-applicant and his family members before the Court of Judicial Magistrate First Class, Wardha, which is still pending. The non-applicant also filed Petition No.D-41/2023 under Section 6 of the Hindu Minority and Wards Act, 1956 for custody of child before the Family Court at Nagpur.

05] It is contended on behalf of the applicant that the applicant has no independent source of income. Due to poor financial position, the parents of the applicant are not in a position to bear to and fro expenses

of her travelling for attending the proceedings filed by the non-applicant at Nagpur. Hence, she seeks transfer of the petition from the Family Court at Nagpur to the Competent Court of Civil Judge Senior Division at Wardha.

06] The applicant is having a minor child and they are totally dependent on the parents of the applicant. There is serious dispute over the custody of child between the applicant and the non-applicant. There are allegations and counter allegations about taking away the child from each other. Even, police complaints of assault against each other are also filed in the Police Station at Nagpur. In that scenario, it will be difficult for the applicant to attend the Court at Nagpur by leaving her minor child. After attending the proceedings at Nagpur, the applicant, a lady, has to return to Wardha at late hours. Other proceeding under the provisions of the Protection of Women from Domestic Violence Act is pending at Wardha.

07] In these peculiar circumstances and in view of the ratio laid down by this Court in the case of *Sangamitra w/o Ramakant Royalwar vs. Ramakant s/o Gangaram Royalwar – 2008 (6) ALL.MR.1* and also in view of the recent verdict of the Hon'ble Supreme Court in the case of *N.C.V. Aishwarya vs. A.S. Saravana Karthik Sha – 2022 LiveLaw (SC) 627* wherein it has been held that the convenience of the wife must be looked at, a case is made out for transferring the proceedings filed by the non-applicant from Nagpur to Wardha. Hence, the following order:

O R D E R

- I. The application is allowed.
- II. Petition bearing No.D-41/2023 filed by the non-applicant on the file of the learned Judge of the Family Court at Nagpur is directed to be transferred to the Competent Court at Wardha.

- III. Both the parties are directed to appear before the Competent Court at Wardha on 14th March, 2024.
- IV. The application is disposed of accordingly with no orders as to costs.

JUDGE

**sandesh*