



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

Civil Application [MCA] No.119 of 2024

Saroj w/o Jitendra Dodake

vs.

Jitendra s/o Bhagwan Dodake

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

Court's or Judge's Orders

Mr. G.N. Shinde, Advocate for the Applicant.

Mr. I.G. Meshram, Advocate for the Non-Applicant.

CORAM : M.W. CHANDWANI, J.

DATE : 4th APRIL, 2024.

Heard the learned Counsel for the applicant-wife as well as the learned Counsel for the non-applicant-husband.

02] By invoking the jurisdiction of this Court under Section 24 of the Code of Civil Procedure, the applicant seeks transfer of Hindu Marriage Petition No.35 of 2021 pending on the file of the learned Civil Judge Senior Division, Kelapur, District Yavatmal to the Court of learned Civil Judge Senior Division, Gadchiroli.

03] It is not necessary to go into the allegations and counter allegations made in the proceedings pending before the Court of learned Civil Judge Senior Division, Kelapur or before the Court of Judicial Magistrate First Class, Armori, District Gadchiroli, suffice to say that the applicant is residing separately at her parental house at Armori, District Gadchiroli. She has filed proceedings under Section 12 of Protection of Women from Domestic Violence Act, 2005, which is pending on the file of learned Judicial Magistrate First Class, Armori. The non-applicant-husband has also filed petition under Section 13(1) (i-a)(i-b) of the Hindu Marriage Act, 1955 before the Court of learned

Civil Judge Senior Division, Kelapur.

04] It is contended on behalf of the applicant that the applicant is not having any source of income and till the date no interim order has been passed. The distance between Armori and Kelapur is about 290 kms. It will be difficult for the applicant physically as well as monetarily to attend the proceedings at Kelapur. It is also contended that due to domestic violence at the hands of non-applicant at Kelapur, if she again travels to Kelapur, there may be possibility of untoward incident. Therefore, she seeks transfer of Hindu Marriage Petition filed by the non-applicant from the Court learned Civil Judge Senior Division, Kelapur, District Yavatmal to Court of learned Civil Judge Senior Division at Gadchiroli.

05] The learned Counsel appearing on behalf of the non-applicant vehemently resisted the application.

06] The applicant is residing with her old aged parents at Armori. Travelling to Kelapur for attending the court proceedings, which is near about 290 kms away from Armori, will be difficult for the applicant physically as well as financially. The non-applicant otherwise has to visit the Gadchiroli to defend the pending proceedings filed by the applicant. Even, the non-applicant can appear through Video Conferencing before the Court at Gadchiroli, if such facility is available there.

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 Kelapur to Gadchiroli. Hence, the following order:

- I. The application is allowed.
- II. Hindu Marriage Petition No.35/2021 pending on the file of the Court of learned Civil Judge Senior Division, Kelapur, District Yavatmal is directed to be transferred to the Court of learned Civil Judge Senior Division, Gadchiroli.
- III. Both the parties are directed to appear before the Court of learned Civil Judge Senior Division, Gadchiroli, on 15th April, 2024.
- IV. The non-applicant may attend the proceedings before the learned Civil Judge Senior Division, Gadchiroli through video conferencing, if the said facility is available by moving an application in this behalf to the said Court on the date, where his physical presence is not required.
- V. The application is disposed of in above terms.

JUDGE