



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

MISC. CIVIL APPLICATION (TR) NO.208 OF 2024

(Vishakha w/o Ashish Chawre Vs. Ashish s/o Anandrao Chawre)

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

Court's or Judge's orders.

Ms. N. P. Dhoke, Advocate with Mr. Mahesh Rai, Advocate for Applicant.
Mr. S. S. Sarkar, Advocate for Non-Applicant.

CORAM: G. A. SANAP, J.

DATE: 9th AUGUST, 2024.

This is an application for transfer of Hindu Marriage Petition No.A-1112/2023 filed by the non-applicant against the applicant in the Family Court at Nagpur to the Court of learned Civil Judge, Senior Division, Wardha.

2. It is stated that the applicant has filed proceeding under the Protection of Women from Domestic Violence Act, 2005, against the non-applicant and his parents in the Court of Judicial Magistrate First Class, Arvi. The applicant is residing with parents at Chandani, Post Pimpalkhuta, Taluka Arvi, District Wardha. It is the contention of the applicant that for attending the proceedings at Nagpur she has to travel from village Chandani to Pimpalkhuta then to Arvi and then from Arvi depending upon the availability of bus either to Talegaon and from Talegaon to Nagpur. It is submitted that the applicant is facing financial difficulties, since maintenance has not been paid. It is thus stated that in order to avoid the inconvenience to her, it is necessary to transfer the petition from Nagpur to Wardha.

3. The non-applicant has filed the reply and opposed the application. It is contended that this application is false and frivolous. It has been made to cause harassment and inconvenience to the non-applicant. It is undisputed that proceeding under the Protection of Women from Domestic Violence Act, 2005, has been filed by the applicant against the non-applicant and his parents in the Court of learned Magistrate at Arvi. It is contended that the transfer of the petition would cause inconvenience to the non-applicant, in as much as he has been serving as a Police Constable at Nagpur.

4. Heard Advocates for the parties. Perused the record and proceedings.

5. The petition for divorce filed by the non-applicant is at the stage of evidence. Similarly in the Domestic Violence Act proceeding the non-applicant and his parents have appeared. They are contesting the said proceeding which is pending at Arvi. The distance between the Arvi and Wardha is 40 Km. The distance between Arvi and Chandani is 20 Km. The non-applicant is required to attend the Court of Magistrate at Arvi in a Domestic Violence Act proceedings. The Domestic Violence Act proceeding is also otherwise ready for hearing. There is no order of interim maintenance in any proceeding in favour of the applicant. It is contended that the applicant is having a job on a contract basis with one Outsourcing Agency. It is seen that particulars of salary have not been placed on record. The applicant on account of matrimonial discord

between her and the applicant has been compelled to reside with the parents at Chandani. In my view, in such proceedings, the Court has to consider the convenience of the wife. The non-applicant is serving as Police Constable. He is required to attend the Domestic Violence proceeding. He can also therefore, attend the proceeding at Wardha if it is transferred to Wardha. In my view, considering the facts brought on record for the purpose of ensuring the convenience of the applicant – wife, it would be just and proper to transfer the proceeding pending before the Family Court to the Court of Civil Judge, Senior Division, Wardha. In view of this, the application is allowed. It is made clear that if a request is made by the non-applicant before any Court either at Wardha or at Arvi to keep both the matters on the same date, the same shall be considered. In this case, therefore, the prayer made by the applicant deserves to be accepted. Hence, the following order:

ORDER

- i] The application is allowed.
- ii] The proceedings of Hindu Marriage Petition No.A-1112/2023, pending before the Family Court, Nagpur, be transferred to the learned Civil Judge, Senior Division, Wardha for decision in accordance with law.
- iii] The Principal Judge, Family Court, Nagpur shall withdraw the proceedings of Hindu Marriage Petition No.A-1112/2023 from the file of Judge, Family Court, Nagpur and transfer it to the file of Principal District and Sessions Judge, Wardha.

iv] The Principal District and Sessions Judge, Wardha shall, in turn, assign the proceedings of Hindu Marriage Petition No.A-1112/2023 to the learned Civil Judge, Senior Division, Wardha for its disposal in accordance with law.

6. The application stands disposed of in the aforesaid terms. No order as to costs.

(G. A. SANAP, J.)

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