



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

Civil Application [MCA] No.597 of 2023

Sau. Jagruti w/o Satish Geete

vs.

Shri Satish s/o Narayan Geete

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

Court's or Judge's Orders

Mr. Rohan Bhishikar, Advocate for the Applicant.

Mr. G.J. Dipwani, Advocate for the Non-Applicant.

CORAM : M.W. CHANDWANI, J.

DATE : 10th APRIL, 2024.

Heard the learned Counsel for the applicant-wife and the learned Counsel 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 Marriage Petition No.133 of 2023 pending on the file of the learned 6th Joint Civil Judge Senior Division, Aurangabad to the Court of learned Civil Judge Senior Division, Gadchiroli.

03] The applicant is the wife of the non-applicant. Out of said wedlock, they are having a son, aged about 5 years. It is contended that, the non-applicant's mother and sister used to taunt and humiliate the applicant. The non-applicant, being a short tempered and adamant by nature, used to get annoyed upon the applicant and also used to abuse her verbally as well as physically. Due to such matrimonial discord between them, they got separated and the applicant was constrained to take shelter at her parental house situated at Gadchiroli. The applicant, therefore, filed proceedings against the non-applicant under the provisions of the Protection of Women from Domestic Violence Act, 2005,

which is still pending before the learned Judicial Magistrate First Class, Gadchiroli. The non-applicant also filed H.M.P. No.133/2023 for restitution of conjugal rights before the learned Civil Judge Senior Division, Aurangabad.

04] It is contended on behalf of the applicant that there is no one in her parental family to accompany her to Aurangabad for attending the proceedings filed by at non-applicant. It is also contended that since the distance between the Gadchiroli and Aurangabad is near about 660 kms., it would be very inconvenient for the applicant to travel such a long distance along with her 5 year old son. Therefore, she seeks transfer of the marriage petition from the Aurangabad to Gadchiroli.

05] The non-applicant resisted the application by filing his written submission on record.

06] The applicant is having a minor son of five years. They are totally dependent on the parent of the applicant. Travelling to Aurangabad, which is near about 660 kms. away from Gadchiroli, will be difficult for the applicant physically as well as financially by leaving her minor children. The non-applicant otherwise has to visit 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 Aurangabad to Gadchiroli. Hence, the following order:

ORDER

- I. The application is allowed.
- II. Hindu Marriage Petition No.133/2023 pending on the file of the Court of learned 6th Joint Civil Judge Senior Division, Aurangabad 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 24th 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

**sandesh*