



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

Civil Application [MCA] No.615 of 2023

Mrs. Vijaya w/o Rajesh Kakade

vs.

Rajesh s/o Sadashiorao Kakade

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

Court's or Judge's Orders

Mr. Rahul J. Shinde, Advocate for the Applicant.

CORAM : M.W. CHANDWANI, J.
DATE : 15th MARCH, 2024.

Heard.

02] By the present application, the applicant seeks transfer M.C.A. No.879/2022, pending on the file of the learned District Judge, Nagpur to the learned District Judge, Amravati. The applicant is residing at Morshi, District Amravati.

03] None appears for the non-applicant, though he is duly served.

04] It is submitted that the applicant is legally wedded wife of the non-applicant. Their marriage was solemnized on 03/05/2006. Out of said wedlock, they are having a son viz. Arnav and a daughter viz. Shrushti, aged about 16 years and about 13 years respectively. Due to harassment to the applicant at her matrimonial house so also the applicant and her children were left by the non-applicant, the applicant was constrained to leave her matrimonial house. The non-applicant is not paying maintenance to the applicant and her children.

05] By the order dated 13/12/2023 of this Court, the marriage petition filed by the non-applicant has been transferred from the Court of learned Civil Judge Senior Division, Nagpur to the Court of learned Civil Judge Senior Division, Amravati. The non-applicant has filed application for custody of child under Section 6 of the Hindu Minority and Guardianship Act, 1956 before the District Court, Nagpur.

06] The distance between Nagpur and Morshi is about 200 kms. and as such, it is inconvenient for the applicant to attend the proceeding at Nagpur. There is no reply filed by the respondent.

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 non-applicant from Nagpur to Amravati. Hence, the following order:

- I. The application is allowed.
- II. M.C.A. No.879/2022 filed by the non-applicant on the file of the learned District Judge, Nagpur, is directed to be transferred to the Court of learned District Judge, Amravati.
- III. Both the parties are directed to appear before the Court of learned District Judge, Amravati 1st April, 2024.
- IV. The application is disposed of accordingly.

JUDGE