



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

Civil Application [MCA] No.665 of 2023

Payal w/o Ujjwal Thakare
vs.
Ujjwal s/o Yashwant Thakare

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

Court's or Judge's Orders

*Ms. Poonam Moon with Ms. Shraddha Buddhe h/f Mr. N.R. Gandhi,
Advocates for the Applicant.
None appears for the Non-Applicant.*

CORAM : M.W. CHANDWANI, J.
DATE : 7th MARCH, 2024.

Heard the learned Counsel appearing for the applicant.
Nobody appears on behalf of the non-applicant. Though the non-applicant is duly served, he chooses not to file reply to the application.

02] By invoking the jurisdiction of this Court under Section 24 of the Code of Civil Procedure, the applicant seeks transfer of marriage petition bearing No.68/2023, pending on the file of the learned Civil Judge Senior Division, Shahada, District Nandurbar to the learned Principal Judge, Family Court at Nagpur

03] The applicant is the wife of the non-applicant. Out of said wedlock, they are having a son, aged about 5 years. Due to matrimonial dispute, the applicant is compelled to reside along with her minor son at her parental house at Nagpur.

04] The applicant filed an application under Section 125 of the Code of Criminal Procedure for grant of maintenance against non-applicant before the Family Court at Nagpur, which is still pending. The

non-applicant also filed Marriage Petition No.68/2023 under the provisions of the Hindu Marriage Act, 1955 before the Court of learned Civil Judge Senior Division, Shahada, District Nandurbar.

05] It is contended on behalf of the applicant that the applicant has no independent source of income. Her father has expired. Due to poor financial position, the parent of the applicant is not in a position to bear to and fro expenses of her travelling for attending the proceedings filed by the non-applicant at Shahada, District Nandurbar. Hence, she seeks transfer of the petition from the Court of learned Civil Judge Senior Division, Shahada, Nandurbar to the Family Court at Nagpur.

06] The applicant is having a minor child and they are totally dependent on the parent of the applicant. Travelling to Shahada, which is near about 650 kms. away from Nagpur, will be difficult for the applicant by leaving her minor child. The non-applicant otherwise has to visit Nagpur to defend the pending proceedings filed by the applicant.

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 Shahada to Nagpur. Hence, the following order:

O R D E R

- I. The application is allowed.
- II. Petition bearing No.68/2023 filed by the non-applicant on the file of the learned Civil Judge Senior Division, Shahada,

District Nandurbar is directed to be transferred to the learned Principal Judge, Family Court at Nagpur.

- III. Both the parties are directed to appear before the Family Court at Nagpur on 21st March, 2024.
- IV. The application is disposed of accordingly with no orders as to costs.

**sandesh*

JUDGE