



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

Civil Application [MCA] No.695 of 2023

Sau. Jaya Vishwas Meshram vs. Vishvas Damodar Meshram and another

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

Court's or Judge's Orders

Mr. A.M. Telange, Advocate for the Applicant.
None for the Non-Applicants.

CORAM : M.W. CHANDWANI, J.
DATE : 19th JANUARY, 2024.

Heard the learned Counsel appearing for the applicant-wife.
 None appears for non-applicant No.1-husband, though he is duly served
 by paper publication being a contesting party.

02] By invoking the jurisdiction of this Court under Section 24 of
 the Code of Civil Procedure, the applicant seeks transfer of Petition No. A-
 114/2023 pending on the file of the learned Principal Judge, Family
 Court, Nagpur to the Court of Civil Judge Senior Division, Gadchiroli.

03] The applicant is the wife of non-applicant No.1. Out of said
 wedlock, they are having a daughter and a son, aged about 14 and 13
 years respectively. Non-applicant No.1 and his family members used to
 torture on the applicant on petty reasons and for want of dowry. He used
 to take doubts on the character of the applicant that she is having illicit
 relationship with non-applicant No.2. Due to continuous demand of
 dowry and cruelty at the hand of non-applicant No.1, the applicant was
 compelled to leave her matrimonial house along with her children and
 reside with her parents at Heti, Tahsil Desaiganj (Wadsa), District
 Gadchiroli. The applicant filed an application under Section 12 of the
 Protection of Women from Domestic Violence Act, 2005 for grant of
 maintenance against non-applicant No.1 before the Court of Judicial

Magistrate First Class, Desaiganj, which is still pending. Non-applicant No.1 also filed Petition No.A-114/2023 for dissolution of marriage before the Family Court at Nagpur.

04] It is contended on behalf of the applicant that the applicant has no independent source of income. Due to poor financial position, the parents of the applicant are not in a position to bear to and fro expenses of her travelling for attending the proceedings filed by non-applicant No.1 at Nagpur. Hence, she seeks transfer of the petition from the Family Court at Nagpur to the Competent Court of Civil Judge Senior Division at Gadchiroli.

05] Since, non-applicant No.1 changed his residence, the notices could not be served upon him. Therefore, the applicant has published notice through paper publication. In spite of paper publication, non-applicant No.1 chooses to remain absent and not to contest the application.

06] The applicant is having minor children. They are totally dependent on the parents of the applicant. The applicant is also having some health issues. Travelling to Nagpur, which is near about 130 kms. away from Desaiganj, will be difficult for the applicant by leaving her minor children. After attending the proceedings at Nagpur, the applicant, a lady, has to return to Desaiganj at late hours. The non-applicant otherwise has to visit Gadchiroli 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 non-applicant No.1 from Nagpur to Gadchiroli. Hence, the following order:

- I. The application is allowed.
- II. Petition bearing No.A-114/2023 filed by non-applicant No.1 on the file of the learned Principal Judge of the Family Court at Nagpur is directed to be transferred to the Competent Court of Civil Judge Senior Division at Gadchiroli.
- III. Both the parties are directed to appear before the Competent Court at Gadchiroli on 23rd February, 2024.
- IV. The application is disposed of accordingly.

JUDGE

**sandesh*