



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

Misc Civil Application [MCA] No.774 of 2023

Leena w/o Amol Nikam vs. Amol Pandit Nikam

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

Court's or Judge's Orders

Shri N. R. Jadhav a/w Shri V. S. Borkar, Advocates for the Applicant.
Smt. A. S. Mishrikotkar, Advocate for the Non-Applicant.

CORAM : M.W. CHANDWANI, J.
DATE : 03/04/2024.

Heard the learned counsel for the applicant-wife as well as learned counsel for 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 Petition No.616/2022 pending on the file of Civil Judge, Senior Division, Kalyan, Thane to the Family Court, Nagpur.

03] The applicant is the wife of non-applicant. It is submitted that the applicant was ill-treated time and again at the hands of the non-applicant and his family members and used filthy and abusive language. It is also submitted that the non-applicant has beaten the applicant on various occasions.

04] It is submitted that the applicant has filed two petitions before the Family Court, Nagpur i.e. i] Petition No.A-806/2022 for decree of nullity under Section 12(1)(c) and 14 of the Hindu Marriage Act and ii] Petition No.E-122/2022 for maintenance under Section 125 of the Code of Criminal Procedure. Both the matters are pending before the Family Court, Nagpur.

05] It is submitted that in order to harass the applicant, the non-applicant has filed Petition No.616/2022 before the Civil Judge, Senior Division, Kalyan, Thane. It is contended that since the parents of the applicant are old, they could not travel with the applicant to attend the proceedings at Kalyan, Thane.

06] The distance between Nagpur and Kalyan is about 735 kms. It requires whole night journey to reach Kalyan from Nagpur. After attending the matter, the applicant has to return to Nagpur. The parents of the applicant are old. There is nobody to accompany her to attend the Court at Kalyan. It will be inconvenient for the applicant to attend the Court at Kalyan. The non-applicant otherwise is appearing in the matter before the learned Family Court at Nagpur.

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 Kalyan, Thane to Nagpur. Hence, the following order:

- I. The application is allowed.
- II. Petition bearing No.616/2022 filed by non-applicant on the file of the learned Civil Judge, Senior Division, Kalyan, Thane is directed to be transferred to the Family Court, Nagpur.
- III. Both the parties are directed to appear before the Family Court, Nagpur on 22/04/2024.

IV. The application is disposed of accordingly.

[M. W. CHANDWANI, J.]

Choulwar