



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

MISC. CIVIL APPLICATION (TR) NO.781 OF 2023

[Aarti W/o. Sujit Purkar ..Vs.. Sujit S/o. Arun Purkar]

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

Court's or Judge's order

Ms S. Kulkarni (Potey), Advocate (Appointed) for Applicant.
Mr C. D. Thamke, Advocate for Non-Applicant.

CORAM : M. W. CHANDWANI, J.

DATE : 18th APRIL, 2024.

. Heard.

2. **Admit.**

3. This is an application under Section 24 of the Civil Procedure Code for transfer of Marriage Petition No.523/2020, filed by the non-applicant against the applicant, from the Court of the learned Civil Judge Senior Division, Kalyan, District Thane to the Family Court, at Amravati.

4. The applicant is residing with her parents at Amravati. The applicant filed an application bearing Misc. Criminal Application No.146/2021 under Section 12 of the Protection of Women from Domestic Violence Act, 2005, against the non-applicant before the learned Judicial Magistrate First Class, Amravati, which is still pending. The non-applicant has filed a Petition bearing No.523/2020 against the applicant, which is pending in the Court of the learned Civil Judge Senior Division, Kalyan, for which transfer is sought.

5. Heard Ms Kulkarni, learned counsel for applicant as well as Mr Thamke, learned counsel for non-applicant and perused the record.

6. It is contended on behalf of the learned counsel for the applicant that the applicant has no independent source of income and she is living with her parents at Amravati. The father of the applicant is paralyzed and except the applicant, there is no one to take care of her father. The applicant is not in a position to bear to and fro expenses of her traveling for attending the proceedings of divorce filed by non-applicant against her at Kalyan. Hence, she seeks transfer of the said petition from the Court of the learned Civil Judge Senior Division, Kalyan to the Family Court at Amravati.

7. It is seen from the record that the applicant is living with her paralyzed father. The applicant has to travel Kalyan, which is more than 550 kms. away from Amravati and which requires at least eight hours of traveling. After the matter is over, she has to return to Amravati on next day. She is required to incur expense for traveling to and fro from Amravati to Kalyan to attend the said proceeding. The non-applicant otherwise has to visit Amravati to defend the pending proceedings filed by the applicant. Hence, no prejudice will be caused if the proceeding, filed by the non-applicant against the applicant, is transferred from Kalyan to Amravati.

8. 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, a case is made out for transferring the said proceedings from Kalyan to Amravati. Hence, the following order:-

- i) The application is **allowed**.
- ii) The proceedings bearing Marriage Petition No.523/2020, pending in the Court of the learned Civil Judge Senior Division, Kalyan, District Thane, is transferred to the Family Court at Amravati.
- iii) The non-applicant may attend the proceedings before the Family Court, Amravati 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.

9. The application is disposed of, in above terms.

(JUDGE)

Incorporated as
per Court's order
dated 07.05.2024.