



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

MISC. CIVIL APPLICATION NO.868 OF 2023

APPLICANT : Sou. Nidhi W/o Deepak Joshi
Aged about 36 years, Occ. Household, R/
o. C/o. Plot no.18B, Shankar Nagar,
Chandrana Layout, Sant Tukdoji Ward,
Hinganghat, Tah. Hinganghat, Distt.
Wardha

..VERSUS..

NON-APPLICANT : Deepka S/o Ramnivas Joshi,
Aged about 40 years, Occ. Service R/o. A-
7, Rohit Plaza, Hingne, Khurud,
Singhgad, Road, Pune.

Ms M. M. Ghatode, Advocate for Applicant.

CORAM : **M. W. CHANDWANI, J.**

DATE : **18th MARCH, 2024.**

ORAL JUDGMENT

. Heard.

2. Though, the non-applicant is served, none appears on
his behalf. Therefore, the averments made in the application went
un-controverted.

3. **Admit.**

4. This is an application under Section 24 of the Civil Procedure Code for transfer of petition No.A-775/2023, filed by the non-applicant against the applicant from the file of Family Court, Pune to the Court of the Civil Judge Senior Division, Hinganghat, District Wardha.

5. The applicant is residing with her parents at Hinganghat, District Wardha. The applicant filed petition bearing no.102/2022 under Section 13(1)(i-a) of the Hindu Marriage Act, 1955, for dissolution of marriage before the learned Civil Judge Senior Division, Hinganghat, District Wardha, which is still pending. It is submitted that in the instant matter, despite issuing notice to the non-applicant, the non-applicant chose not to appear and the Court below has passed ex-party order against the non-applicant. After passing some dates, the non-applicant appeared at the time of evidence, but no reply is filed. Therefore, the applicant has filed an application bearing No.1042/2023 under Section 125 of the Cr.P.C. before the learned JMFC, Hinganghat, District Wardha for maintenance. The non-applicant has filed a petition bearing No.A-755/2023 against the

applicant, which is pending on the file of the learned Family Court, Pune, for which transfer is sought.

6. Heard Ms. Ghatode, learned counsel for applicant and also perused the record.

7. 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 at the mercy of her parents. 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 Pune. Hence, she seeks transfer of the said application from the learned Family Court, Pune to the learned Civil Judge Senior Division, Hinganghat, District Wardha.

8. It is seen from the record that the applicant is living at the mercy of her parents. The father of the applicant is an old age person. The applicant has to travel Pune, which is more than 750 kms. away from Hinganghat and which requires at least ten hours of traveling. After the matter is over, she has to return to Hinganghat late in the night. She is required to incur expense for traveling to and fro from Hinganghat to Pune to attend the said

proceeding. The non-applicant otherwise has to visit Hinganghat 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 Pune to Hinganghat.

9. 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 Pune to Hinganghat, District Wardha. Hence, the following order:-

- i) The application is **allowed**.
- ii) The proceedings bearing petition No.A-775/2023, pending on the file of the Family Court, Pune is transferred to the Court of learned Civil Judge Senior Division, Hinganghat, District Wardha.

iii) Both the parties are directed to appear before the concerned Court at Hinganghat, District Wardha on 30.04.2024.

(M. W. CHANDWANI, J.)