



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

MISC. CIVIL APPLICATION (TR) NO.854 OF 2023

[Snehal Amol Peshattiwar ..Vs.. Dr. Amol Keshavrao Peshattiwar]

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

Court's or Judge's order

Ms Darne, Advocate for 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.22/2022, filed by the non-applicant against the applicant, from the Court of the learned Civil Judge Senior Division, Gadchiroli to the Court of the learned Civil Judge Senior Division, Yavatmal.

4. The applicant having minor daughter aged about five years is residing with her old aged parents at Yavatmal. The father of the applicant is 65 years old and suffering from various disease such as hypertension. The applicant filed an application bearing PWDVA No.131/2022 under Section 12 of the Protection of Women from Domestic Violence Act, 2005, against the non-applicant before the learned Joint Civil Judge Junior Division and JMFC, Yavatmal, which is still pending. She also filed the petition bearing No.E-101 of 2022, under Section 125 of the Code of Criminal Procedure,

1973, against the non-applicant, before the Family Court at Yavatmal, which is also still pending. The non-applicant has filed a Marriage Petition bearing No.22/2022 against the applicant, which is pending in the Court of the learned Civil Judge Senior Division at Gadchiroli, for which transfer is sought.

5. Heard Ms Darne, learned counsel for applicant and perused the record.

6. It is contended on behalf of the learned counsel for the applicant that the applicant has a minor daughter aged about five years. The applicant's father is 65 years old suffering from hypertension. She has no fixed source of income and she is unable to travel alone to prosecute the suit at Gadchiroli. As the applicant is totally depends on her old aged parents, she 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 Gadchiroli. Hence, she seeks transfer of the said petition from the Court of the learned Civil Judge Senior Division, Gadchiroli to the Court of the learned Civil Judge Senior Division at Yavatmal.

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

8. It is seen from the record that the applicant having minor daughter is living with her old aged parents. Her father is suffering from hypertension. There is no other male

member to accompany the applicant to travel Gadchiroli. The applicant has to travel Gadchiroli, which is about 240 kms. away from Yavatmal and which requires at least six hours of traveling. After the matter is over, she has to return back to Yavatmal in evening. She is required to incur expense for traveling to and fro from Yavatmal to Gadchiroli to attend the said proceeding. The non-applicant otherwise has to visit Yavatmal 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 Gadchiroli to Yavatmal.

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 into, a case is made out for transferring the said proceedings from Gadchiroli to Yavatmal. Hence, the following order:-

- i) The application is **allowed**.
- ii) The proceedings bearing Marriage Petition No.22/2022, pending in the Court of the learned Civil Judge Senior Division, Gadchiroli, is transferred to the Court of the learned Civil Judge Senior Division, Yavatmal.

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

(JUDGE)