



2023

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

MISC. CIVIL APPLICATION [MCA] No.825 OF 2023

PRANOTI W/O RAHUL KOKADDED

VRS.

RAHUL S/O GAJANAN KOKADDE

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri C. S. Tamhane, Advocate for applicant.

CORAM: M. W. CHANDWANI, J.
DATE : 12/02/2024.

Heard the learned Counsel appearing for the applicant-wife.
None appears for non-applicant - husband, though he is duly served
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
bearing No.A-772/2023 pending on the file of the learned Principal
Judge, Family Court, Nagpur to the Court of learned Principal Judge,
Family Court, Amravati.

03] The applicant is wife of non-applicant. Due to cruelty at the
hands of non-applicant, the applicant is residing with her parents' house
at Tejashri Apartment G-1, Durga Vihar, Ravi Nagar Chowk, Amravati.

04] The Non-applicant filed Petition under Section 13(1)(i-a)(i-b)
and (iii-b) of the Hindu Marriage Act, 1955 bearing petition
No.A-772/2023 for divorce before the learned Principal Judge, Family
Court, Nagpur. The non-applicant issued a legal notice alleging that the
applicant is suffering from mental illness and sought her consent for
initiating proceedings for grant of decree of mutual divorce. However, the
applicant replied to the notice issued by the non-applicant denying the

contents therein. The non-applicant again issued another notice seeking consent for mutual divorce.

05] It is contended on behalf of the applicant that the applicant is home maker and has no independent source of income and totally dependent upon the non-applicant - husband. The applicant has further contended that the father of the applicant is aged about 60 years and is the only earning member of the family and he has his own family and responsibilities. It is further contended by the applicant that the father of the applicant has undergone a major Heart Surgery and the Doctor has advised to the father of the applicant to avoid travelling. Due to old age and Heart Surgery of the father of the applicant, she is unable to leave her parents and unsafe for her to travel alone.

06] In spite of service of notice upon the non-applicant - husband, the non-applicant chooses to remain absent and not to contest the application.

07] The applicant is totally dependent upon her parents. The applicant is residing at Amravati. The distance from Nagpur to Amravati is near about 150 kms. Her old aged ailing father is unable to accompany her to attend the Court at Amravati. It will be difficult for the applicant to travel alone 300 kms to and fro on every date. After attending the proceedings at Nagpur, the applicant, a lady, will have to return to Amravati at late evening.

08] 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 from Nagpur to Amravati. Hence, the following order:

ORDER

- i] The application is allowed.
- ii] Petition bearing No.A-772/2023 filed by the non-applicant pending on the file of the learned Principal Judge, Family Court, Nagpur is directed to be transferred to the Competent Court of learned Principal Judge, Family Court, Amravati.
- iii] Both the parties are directed to appear before the Competent Court at Family Court, Amravati on 27/02/2024.

The application is disposed of accordingly.

[M. W. CHANDWANI, J.]

Choulwar