



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

MISC. CIVIL APPLICATION [TR] NO.946 OF 2023

Payal Narayanrao Gohatre,
Age 25 years, Occ : Nil,
R/o. Ladegaon, Tah. Arvi,
Dist. Wardha.

..

Applicant

.. Versus ..

Shubham Rajaram Ramankatte,
Age 25 years, Occ : Service,
R/o. Vasant Nagar, Mouje-Digraj,
Tah. Miraj, Dist. Sangli.

..

Non-Applicant

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Mr. D.R. Bhoyar, Advocate for Applicant,
Smt. Snehalata Sahastrabuddhe, Advocate for Non-Applicant.

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CORAM : M.W. CHANDWANI, J.
DATE : 08/03/2024.

JUDGMENT :

1. Heard. **Admit.**

2. By this application under Section 24 of the Code of
Civil Procedure, the applicant seeks transfer of Petition No. A-

176/2023 pending on the file of Family Court No.1, Sangli to the Court of Civil Judge, Senior Division, Wardha.

3. It is contended that in the year 2021 when the applicant was pursuing her education she came in contact with the non-applicant through social media and gradually they became close friends. It is further contended that on 05.05.2022 the father of applicant expired and taking undue advantage of the said situation, the non-applicant exerted the pressure for marriage on the applicant. The non-applicant on 29.06.2022 came to Wardha and called the applicant to meet him at Wardha and also threatened that if she refuses to come to Wardha, he himself will come to her house. Therefore, the applicant went to Wardha where the non-applicant took her to the house of one of his friend named Harshwardhan Godghate who was running an office by the name "Rajratna Vivah Mangal Karyalala". The non-applicant forced her to sign on some documents and accordingly a Certificate of Marriage dated 29.06.2022 between applicant and non-applicant came to be issued without performing any ritual of marriage. The non-applicant started exerting pressure on the applicant to join his company through phone calls and messages

but the applicant warned him that she will lodge police report against him. The applicant filed a suit under Section 24 of the Specific Relief Act against the non-applicant in the court of Civil Judge, Senior Division, Wardha praying for the declaration and permanent injunction and for damages that the non-applicant is not legally wedded husband and as well as for the decree of declaration that the Marriage Certificate dated 29.06.2022 issued by Rajratan Vivah Mangal Karayalaya, Mhasala, Wardha as illegal.

4. It is contended that the applicant filed a suit bearing Special Civil Suit No.44/2023 for declaration against the non-applicant and the non-applicant, in counter, filed a petition bearing Petition No. A/176/2023 under Section 9 (b) of Hindu Marriage Act, 1955 in the Family Court at Sangli, thereby praying for the decree for restitution of conjugal rights. At present the applicant is residing with her old mother at Ladegaon. The distance between Sangli and Wardha is 750 km. It is contended that it is inconvenient for the applicant to attend the proceeding at Sangli. Therefore, the applicant seeks to transfer the proceedings at Wardha.

5. The learned counsel for the non-applicant vehemently opposed the application for transferring the proceeding at Wardha from Sangli on the ground that being a lady is not a handicap to limit her from travelling. The matrimonial house is situated at Sangli, where I reside. Hence, the petition sought to be transferred is rightfully filed before the correct authority. The applicant has failed to show what impediment is caused to her so as not to attend the Family Court at Sangli. Seeking transfer of the petition only because it is convenient for the applicant is not a valid ground. It is contended that non-applicant is working at a private firm in Nipani Travelling to Arvi Wardha for court case will cause great financial loss and loss of employment if the matter gets transferred there. The petition filed before Family Court is right and proper and it has jurisdiction to try the same. Furthermore, the issue between applicant and non-applicant can be solved amicably before the mediator appointed by the Family Court at Sangli. On this account the petition should not be transferred to Arvi, Wardha District.

6. Heard the learned counsel for the applicant and the learned counsel for the non-applicant. I have gone through the record.

7. The distance between Wardha to Sangli is 750 k.m. It requires more than 15 hours journey to reach Sangli. After attending the Court at Sangli, she will have to travel alone for a day to Wardha late at night. Since her mother is old and the applicant will have to travel alone, it will be inconvenient for her to attend the Court at Sangli. The Apex Court in the case of **N.C.V. Aishwarya .vs. A.S. Saravana Karthik Sha, 2022 LiveLaw (SC) 627** in para 9 has observed as under :

9. The cardinal principle for exercise of power under [Section 24](#) of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socio-economic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.

8. Considering the present position of the applicant and observations of the Supreme Court in the case of **N.C.V. Aishwarya** (supra), that the wife's convenience is to be looked into while

considering the transfer application. In my view, a case is made out for transfer of Petition No. A-176/2023 pending on the file of Family Court No.1, Sangli to the court of Civil Judge, Senior Division, Wardha, District-Wardha. Hence, I pass the following order :

(i) Petition No. A-176/2023 is ordered to be transferred from the Court of Family Court No.1, Sangli to the Court of Civil Judge, Senior Division, Wardha, District-Wardha.

(ii) The non-applicant would be at liberty to appear before the Court of Civil Judge, Senior Division, Wardha through video conferencing upon an application made in that behalf to the Civil Judge, Senior Division, Wardha.

(iii) In the aforesaid terms, MCA is allowed and disposed of.

(M.W. Chandwani, J.)