



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

MISC. CIVIL APPLICATION (TR.) NO.43 OF 2024

Mrs. Prachi w/o Nitin Bershettiwar

Vs.

Shri Nitin Yashwantrao Bershettiwar

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

Court's or Judge's orders.

Mr N.Y. Lade, Advocate for the applicant.

Mr. G.N. Khanzode, Advocate for the non-applicant.

CORAM : G.A. SANAP, J.

DATE : 27.09.2024

Heard learned Advocates for the parties.

Perused the record and proceedings.

2. This is an application for transfer of Petition No.A-860/2023 pending on the file of the Family Court No.2 at Nagpur to the Court of Civil Judge, Senior Division at Chandrapur.

3. It is stated that on account of marital discord, the applicant and the non-applicant are residing separately. The applicant has been residing at Chandrapur along with her 11 year old son. She

has been doing service as teacher on contract basis. Son is attending the school. The husband is doing business at Nagpur. The proceeding is filed in the Family Court at Nagpur. It is stated that on account of her job, education of her son and other difficulties faced by her, she is not able to regularly attend the Court at Nagpur. She has been put to great inconvenience while attending the proceeding at Nagpur. The distance between Chandrapur and Nagpur is 150 km. There is nobody in her family to take care of her son in her absence.

4. The non-applicant has opposed this application. It is contended that the grounds pleaded in the application are not at all acceptable. No case has been made out for transfer. It is further contended that as per their settlement which was reduced into writing the visitation right has been granted to the non-applicant. The applicant has not complied this relevant condition. He is not allowed to meet his son.

5. Learned Advocate for the applicant has filed the affidavit of the applicant on record. In her affidavit, the applicant has reiterated that in terms of the settlement, she has no objection for the right of the non-applicant to visit the son. She has also stated that she has not prevented the non-applicant from meeting son. In my view, this affidavit would take care of the grievance made by the non-applicant.

6. The child is with the applicant. He is attending the school. The applicant is working as a teacher on contract basis. The responsibility of the child is on the shoulder of the applicant. The non-applicant is doing business at Nagpur. In my view, in such proceeding, the inconvenience caused to the wife deserves appropriate consideration. On consideration of the relevant facts, I am of the opinion that the comparative inconvenience to the wife-applicant would be greater in case she is required to attend the proceeding at Nagpur. Accordingly, the application deserves to be allowed.

Hence, the following order:-

ORDER

- i) The application is allowed.
- ii) Petition No.A-860/2023 pending on the file of Family Court No.2 at Nagpur be transferred to the Court of Civil Judge Senior Division, Chandrapur.
- iii) In case the non-applicant makes a request for appearance via video conferencing, the same shall be considered.

7. The application stands disposed of. No order as to costs.

JUDGE