



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

MISC. CIVIL APPLICATION (TR.) NO.100 OF 2024

Smt. Vaishali Bandu Dudhe

(Vs.)

Nitin Ganpatrao Bhowate

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

Court's or Judge's orders.

Mr. N.R. Jadhav, Advocate for the applicant.

Ms Madhuri A. Deshkar, Advocate for the non-applicant.

CORAM : G.A. SANAP, J.

DATE : 04.10.2024

Heard learned Advocate for the applicant
and learned Advocate for the non-applicant.

2. This is an application for transfer of Civil
Misc. Application No.24/2023 pending before the
District and Sessions Judge, Darwha to the Family
Court at Nagpur.

3. The non-applicant has filed the petition
under Guardians and Wards Act, 1890 for custody
of the male child, who is 11 years old and residing
with the applicant at Nagpur. It is stated that the
child is taking education at Nagpur. The applicant is
residing and doing service at Nagpur. The decree of

divorce has been passed in the year 2021. It is stated that the applicant is required to look after the well being of the child. She is finding it very difficult to attend the Court at Darwha. In the application, she has set out the facts in detail.

4. The non-applicant-husband has opposed this application. It is contended that there is no substance in the application. The distance between Nagpur and Darwha is hardly 175 k.m and the transport facility is available. The non-applicant would be required to come down to Nagpur, in case the matter is transferred to Nagpur for attending the same. He is doing business.

5. Learned Advocate took me through the provisions of Section 9 (1) of the Guardians and Wards Act, 1890 and submitted that even otherwise also the District Court at Darwha has no jurisdiction. It is pointed out that in case of dispute with respect to the guardianship of the minor, the application shall be made to the District Court having jurisdiction in the place where the minor ordinarily resides. Learned Advocate for the non-

applicant has fairly conceded that child is residing with the mother at Nagpur. It is also pointed out that since separation between the applicant and non-applicant, the applicant has been residing at Nagpur.

6. In my view, in the backdrop of this mandatory provision such an application has to be made to the District Court having jurisdiction in the place where the minor ordinarily resides.

7. Besides in view of the facts stated in the application with regard to the hardships and inconvenience caused to the applicant, it would be just and proper to grant the application for transfer. It is to be noted that in such a proceeding, the Court has to consider the convenience of the wife and the minor child.

8. In view of this, I proceed to pass following order:-

ORDER

- i) The application is allowed.
- ii) Civil Miscellaneous Application No.24/2023 pending before the District and

Sessions Judge, Darwha be transferred to the Family Court at Nagpur.

iii) The application stands disposed of in the aforesaid terms. No order as to costs.

JUDGE

manisha