



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

MISC. CIVIL APPLICATION (TR.) NO. 239 OF 2024

Smt. Payal W/o. Mithun Kanojiya

Vs.

Shri Mithun S/o. Prakash Kanojiya

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

Court's or Judge's orders

Mr. J.R. Kidilay, Advocate for the Applicant.

CORAM : G. A. SANAP, J.

DATED : 19th JULY, 2024.

1. Heard learned advocate for the applicant. The non-applicant has been duly served, but he has not appeared.

2. This is an application for transfer of Marriage Petition No. 1033/2023, pending on the file of 6th Joint Civil Judge (Senior Division), Kalyan, Dist. Thane, to Court No.2, Family Court at Nagpur.

3. It is stated that the applicant has filed the divorce proceeding against the non-applicant in the Family Court at Nagpur. The non-applicant/husband has filed the petition for restitution of conjugal rights in the Court of Civil Judge (Senior Division), Kalyan. It is the case of the applicant that she has a 10 months male child. The distance between Nagpur and Mumbai is 784 km. She has been residing with her parents at their mercy. The non-applicant is doing business. He has not made any provision for her maintenance. The applicant, with her 10 months child, cannot travel alone. It is submitted that the inconvenience to the applicant is beyond comprehension. It is submitted that, therefore, this proceeding be transferred from

Kalyan to Nagpur.

4. The non-applicant, though served, has not appeared. The facts stated in the application have gone unchallenged and uncontroverted. Besides, the facts, if considered in totality, would show that there is substance in her contention. There is no dispute as to the distance between Nagpur and Kalyan. The applicant would be required to undertake a train journey to go to Kalyan. It may take 12 to 13 hours. The applicant has no place of residence at Kalyan. She would, therefore, be required to make arrangement of her stay at the hotel. In my view, all these facts cannot be brushed aside. In such a proceeding, the convenience of the wife is required to be given precedence. In the facts and circumstances, I do not see any reason to reject the application. Hence, the following order:

ORDER

- i] The Application is **allowed**.
- ii] Marriage Petition No. 1033/2023, pending on the file of 6th Joint Civil Judge (Senior Division), Kalyan, Dist. Thane, be transferred to Court No.2, Family Court at Nagpur, for decision in accordance with law.
- iii] The Application stands disposed of in the aforesaid terms. No order as to costs.

(G. A. SANAP, J.)

Vijay