



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

MISCELLANEOUS CIVIL APPLICATION NO. 39 OF 2024
WITH
MISCELLANEOUS CIVIL APPLICATION NO. 78 OF 2024

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MISCELLANEOUS CIVIL APPLICATION NO. 39 OF 2024

Vinay S/o Pramod Virkhare,
Aged about 33 years, Occ.- Private,
R/o. 118, Ladikar Layout,
Manewada road, Nagpur.
vinay21.virkhare@gmail.com
Mob. No. 9860834388.

.... **APPLICANT**

// VERSUS //

Tejaswini W/o Vinay Virkhare @
Miss. Tejaswini Umesh Tonde,
Aged about 33 years, Occ.-Service,
R/o. 02, Sarvashri Nagar, Dighori,
Nagpur. At present resident of :
Evotec(UK) Ltd. Dorothy Crowfoot
Hodgkin Campus 114 Innovation
Drive, Milton Park, Abingdon
Oxfordshire OX14 4RZ, UK
tejaswinitonde2014@gmail.com
Mob. No. 9881966356.

.... **NON-APPLICANT**

WITH

MISCELLANEOUS CIVIL APPLICATION NO. 78 OF 2024

Sou. Tejaswini W/o Vinay Virkhare
(Ku. Tejaswini D/o Umesh Tonde),
Aged about 33 years, Occ.- Student,
R/o. C/o. Manoharrao Pawar,
Jail Road, Wardha.

.... **APPLICANT**

// VERSUS //

Shri Vinay S/o Pramod Virkhare,
Aged about 33 years, Occ.- Service,
R/o. 118, Ladikar Layout,
Manewada Road, Nagpur.

.... **NON-APPLICANT**

Mrs. Ira P. Khisti, Advocate for the Applicant in MCA
No.39/2024 and for Non-applicant in MCA No.78/2024.

Mr. R. S. Thenge, Advocate for Applicant in MCA
No.78/2024 and for Non-applicant in MCA No.39/2024.

CORAM : SMT. M.S. JAWALKAR, J.

DATE : 08th MAY, 2025.

ORAL JUDGMENT :

1. **RULE.** Rule made returnable forthwith. Heard finally with the consent of the learned Counsel appearing for the parties.
2. Misc. Civil Application No.78/2024 is filed by wife claiming for transfer the proceeding bearing Petition No. A-770/2023 pending on the file of learned Principal Judge, Family Court, Nagpur to the learned Civil Judge, Senior Division, Wardha where the petition filed by the applicant i.e. H.M.P. No.456/2023 for restitution of conjugal rights is pending for adjudication.
3. Misc. Civil Application No.39/2024 is filed by husband claiming for transfer the proceeding H.M.P. No.456/2023, pending on the file of 4th Joint Civil Judge, Senior Division, Wardha to the

learned Principal Judge, Family Court, Nagpur, where the divorce petition bearing Petition No. A-770/2023 is pending for adjudication.

4. It appears from the contents of the application filed by the wife that she has executed a Special Power of Attorney in favour of his father Shri Umesh Baburao Tonde. Admittedly, father of applicant is residing at Nagpur. It is also admitted fact that the applicant is residing at London since 2022. In the Application filed by husband i.e. MCA No.39/2024, placed on record various documents to show that the non-applicant/wife residing at London. The documents placed on record, which were procured under Right to Information Act, where the information supplied by the wife before the “Bharosa Cell” at Police Department. In the said information, the wife has given her permanent address of Hudkeshwar Nagpur and against the column of service, she has given information that she is serving at London and monthly income disclosed of Rs.2,50,000/-. My attention is also drawn to the statement made by the wife before the “Bharosa Cell”, Nagpur City (Page 34). She has stated that she will take up legal proceeding even after residing at London. The Bailiff Report in

response to the summons of the Family Court in Petition No. A 770/2023 shows that, her father informed that she is residing at London (UK). Even notice issued by this Court for attending Lok Adalat, the similar report was given by the Bailiff. Even in her registered address shows that she is residing at London.

5. It appears that the wife has filed a Complaint under Section 12 of the Prevention of Women from Domestic Violence Act, 2005 at Nagpur wherein she has shown her address at Dighori, Nagpur. This petition is filed on 04.11.2022. All these documents placed on record shows that *prima facie* absolutely there was no reason to file proceeding at Wardha Court, specifically when her permanent address is at Hudkeshwar Nagpur and she has given Power of Attorney to her father, who is also residing at Nagpur. Whether she is studying or in service at London hardly makes any difference she is otherwise also not going to appear in Wardha Court. She has already filed an application at Nagpur under the Prevention of Women from Domestic Violence Act, 2005. As such Misc. Civil Application No.39/2024 needs to be allowed and Misc. Civil Application No.78/2024 is liable to be rejected.

6. Accordingly, I pass the following order :

- (i) The Misc. Civil Application No.39/2024 stands **allowed.**
- (ii) The Petition H.M.P. No.456/2023, pending on the file of 4th Joint Civil Judge, Senior Division, Wardha is hereby withdrawn and transferred to the Family Court, Nagpur where the divorce Petition filed by applicant Vinay Pramod Virkhare bearing Petition No. A 770/2023 is already pending.
- (iii) The learned Principal District Judge, Wardha is hereby requested to facilitate the transfer.
- (iv) The Misc. Civil Application No.78/2024 is hereby **rejected.**

Both the Misc. Civil Applications stand disposed of in the above terms. No order as to costs.

(SMT. M.S. JAWALKAR, J.)