



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

MISC. CIVIL APPLICATION (TR.) NO.540 OF 2024

Ujjwala w/o Sudeep Pawar
Vs.
Sudeep s/o Diwakar Pawar

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

Court's or Judge's orders

Ms. Mukta Ranade, Counsel for the applicant.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 07/02/2025

1. By this application, the applicant is seeking transfer of the matrimonial proceeding bearing Marriage Petition No.190/2022 pending in the Court of Civil Judge Senior Judge, Bhandara to the Family Court, Nagpur.

2. Heard learned Counsel for the applicant who submitted that the applicant and the non-applicant are husband and wife and their marriage was performed on 26.06.2021 at Kalmeshwar. After marriage, there was discord between them and therefore, the applicant constrained to leave the matrimonial house. After she returned to the matrimonial house, she filed proceeding in the Family Court, Nagpur for Restitution of Conjugal Rights under Section 9 of the Hindu Marriage Act, whereas the non-applicant has

preferred a petition for dissolution of marriage bearing No.190/2022. If both the petitions are decided by two different Courts, there would be multiplicity of the proceedings and as there is a possibility of two contradictory judgments, in view of that if it is decided by one Court there would not be multiplication of proceedings. In view of that, the petition pending in the Court of Civil Judge Senior Division, Bhandara be transferred to the Family Court, Nagpur.

3. Non-applicant though served, none appeared after giving the sufficient opportunity to him.

4. After hearing the learned Counsel for the applicant and on perusal of the documents on record it reveals that one application is filed by the applicant for Restitution of the Conjugal Rights, whereas the other application is filed by the non-applicant for dissolution of marriage. It would be appropriate and in the interest of justice if the same are decided by the one Court. Moreover, the non-applicant is already attending the proceeding at Nagpur therefore, no prejudice will be caused to the non-applicant if the matter is transferred to Nagpur. This aspect is also considered by the Hon'ble Apex Court in the case of **N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha AIR 2022 SC 4318** wherein Hon'ble Apex Court held that "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."

5. In view of the decision of the Hon'ble Apex Court, the applicant has made out a case for transfer of the petition. In view of that I proceed to pass following order:

ORDER

(i) The application is allowed.

(ii) The marriage petition No.190/2022 pending in Court of Civil Judge Senior Judge, Bhandara is withdrawn and transferred to the Family Court No.4, Nagpur wherein the other petition bearing No. A-1713/2022 is pending.

(iii) Both parties shall appear before the Family Court No.4, Nagpur on **25.02.2025**.

(4)

54.mca.540.2024

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate