



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

MISC. CIVIL APPLICATION [TR] NO.636 OF 2025

Simran Jamil Sheikh d/o Shabab Sheikh,
Aged about 25 years,
Occupation-Nil,
R/o. C/o. Rukhsana Sheikh,
Plot No.227, Wagdhara Gumgaon,
Tah. Hingna, Nagpur.

..

Applicant
(Ori. Def.)

..Versus..

Jamil Sheikh Rashid Sheikh,
Aged 29 years, Occ. Service,
R/o. Shabbir IUDP, Katol,
Nagpur-441302.

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Non-Applicant/
Respondent
(Ori.Plff)

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Shri Abhishek S. Shukla, Advocate for Applicant.
None for Non-Applicant/Respondent though served.
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CORAM : PRAVIN S. PATIL, J.
DATED : 26.11.2025.

JUDGMENT

1. On oral motion the request is made to correct the designation of the court in the prayer clause as well as in the application. The permission is granted. The necessary correction

be carried out forthwith.

2. By way of present application, the applicant is seeking the transfer of Regular Civil Suit No.16/2025 pending before the learned Civil Judge, Junior Division, Katol to the Civil Judge, Senior Division, Nagpur.

3. In the present matter, this court issued notices to the non-applicant on 17.9.2025. The office note shows that the non-applicant is duly served. However, he choose to not present in the present proceeding. This court also granted him sufficient opportunity so that he can represent the present proceeding and appropriate orders will be passed in the matter in his presence but no one remain present on behalf of the non-applicant.

4. Today, when the matter is listed and was called out in the morning session, no one was present on behalf of the non-applicant. Therefore, the matter is taken in the second half, but in the second half also, no one is present on behalf of the non-applicant.

5. The present applicant-wife seeks transfer of the proceeding from Katol to Nagpur on the ground that she is

residing with her mother, recently her father expired in the month of May-2025. The applicant is not having any independent source of earning nor the non-applicant is paying any maintenance to her.

6. In addition to above, it is specifically pointed out that the applicant has already filed one proceeding before the Judicial Magistrate, First Class, Hingna bearing Misc. Criminal Application No.10/2025 under Section 144 of the Bhartiya Nagrik Suraksha Sanhita, 2023 for grant of maintenance and also lodged police complaint against the non-applicant under the provisions of Section 85 of the Bhartiya Nagrik Suraksha Sanhita, 2023

7. The submission of the applicant is that the non-applicant only to harass the present applicant and caused her inconvenience intentionally filed the proceeding for restitution of conjugal rights before Civil Judge, Junior Division, Katol. Therefore she constrained to transfer the proceeding filed by the non-applicant to the Civil Judge, Senior Division, Nagpur.

8. The applicant, in support of her submission, has relied upon the following case laws :

- (i) *Rajani Kishor Pardeshi .vs. Kishor Babulal Pardeshi, reported in (2005)12 SCC 237.*
- (ii) *Roopali Saxena .vs. Amit Saxena, reported in (2004)13 SCC 495.*
- (iii) *Snehal Omprakash Kothekar .vs. Omprakash Domaji Kothekar, reported in 2013 (6) Mh.L.J. 711.*
- (iv) *Poonam Manish Lath .vs. Manish Kashiprasad Lath, reported in 2017 (3) Mh.L.J. 422.*
- (v) *Mukta alias Lata w/o Sachin Chide .vs. Sachin s/o Kamlakar Chide, reported in 2015 (5) Mh.L.J. 848.*
- (vi) *Order dated 11/01/2024 passed in MCA No.490/2022 by this Hon'ble Court.*

9. In the present matter, the non-applicant choose to remain absent. The distance between Katol and Nagpur is hardly 60 to 65 km and normally same cannot be a reason for transfer of the proceeding on the count of distance, in such cases, the travelling charges can be imposed on the husband and application can be disposed of.

10. In the present matter, all the averments of applicant remain uncontroverted due to absence of non-applicant in the matter. There is no reason to disbelieve the same in the matter as same are stated on affidavit. Hence, considering the averment and legal position, I proceed to decide the present matter on its merits.

11. In the present matter, it is admitted fact that one of the proceeding filed under Section 144 of Bhartiya Nagrik Suraksha Sanhita, 2023 is already pending before Judicial Magistrate, First Class, Hingna, so also the police complaint has been lodged by the applicant against the non-applicant on 20.5.2025 at Police Station Hingana, District-Nagpur and investigation is pending in the matter.

12. In the light of this factual aspect, it is prima facie clear that the relations between the applicant and non-applicant are very much strained and the applicant is not willing to cohabit with the non-applicant, but though this proceedings are filed by the applicant, the non-applicant has filed the proceeding for restitution of conjugal rights, therefore, prima facie it is clear that the non-applicant, just to counter blast the

proceeding which the applicant has filed, has filed the proceeding at Civil Judge, Junior Division, Katol.

13. The case laws which applicant has relied upon in the matter, particularly in the case of ***Rajani Pardeshi and Roopali Sexena*** (supra), the Hon'ble Supreme Court of India has held that in the matter of transfer of proceedings, particularly which are arose out of matrimonial dispute, the convenience of the wife should be given priority and as per their convenience the matter should be transferred.

14. In the circumstances, I am of the opinion that in view of the factual as well as the legal position pointed out by the applicant, the case is made out for interference of this court in the matter. Hence, I proceed to pass the following order :

O R D E R

(1) Application is allowed.

(2) The record and proceeding of Regular Civil Suit No.16/2025 pending on the file of Civil Judge, Junior Division, Katol is hereby transferred to the Civil Judge, Senior Division, Nagpur.

(3) The parties are directed to appear before the Civil Judge, Senior Division, Nagpur on **16.12.2025**.

(4) The Civil Judge, Senior Division, Nagpur to decide the proceedings on its own merit.

(5) No order as to costs.

(Pravin S. Patil, J.)