



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
MISC. CIVIL APPLICATION (TR.) NO.630 OF 2025

Sau. Harshal @ Ketaki w/o Amit Khandve

..vs..

Shri Amit s/o Ramesh Khandve

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

Court's or Judge's orders

Shri P.S. Girdekar, Advocate for the applicant.

CORAM: PRAVIN S. PATIL, J.
DATED : 04/11/2025.

This Court on 16.09.2025 issued notices to the non-applicant. The applicant was permitted to serve the non-applicant by all mode of service in addition to the regular mode of service. The applicant accordingly, filed the affidavit on the record dated 11.10.2025 stating that non-applicant was duly served by private mode of service. This matter was lastly listed on 15.10.2025. At that time considering the fact that non-applicant was recently served and to grant him one more opportunity, the matter was adjourned.

2. Today, when the matter was listed and called out, none appeared on behalf of non-applicant.

3. As such, it is clear that non-applicant is not interested to prosecute the present application.

4. Heard the learned Counsel appearing for the applicant.

5. By way of present application, the applicant is seeking transfer of the proceeding filed by non-applicant bearing H.M.P. No.187 of 2019 before the Civil Judge, Senior Division, Pusad, District Yavatmal to the Family Court at Akola.

6. It is the submission of the applicant that due to matrimonial dispute, she is residing separately along with her

parents. Her father is of 77 years old and suffering from paralytic attack. There is no one in her family to look after him. It is further stated that the applicant has already filed the proceedings under the protection of Women From Domestic Violence Act before the Judicial Magistrate, Akola bearing D.V. No.161/2022 and Petition No.44 of 2022 under Section 9 for restitution of conjugal rights.

7. The applicant categorically stated before this Court that non-applicant is attending both the proceedings At Akola. Hence, according to the applicant, no prejudice would be cause to the non-applicant if the proceedings filed by him are transferred to the Family Court, Akola.

8. All the grounds raised by the applicant are not controverted in the matter. As such there is no reason to disbelieved the submission made by the applicant in the matters.

9. It will be necessary to point out that Hon'ble Supreme Court of India in the case of ***N.V.C. Aishwarya vs. A.S. Saravana Karthik Sha 2022 SCC Online SC 1199*** has laid down the law that convenience of the wife should be considered on priority basis and if the matters are inter-dependable then it is desirable to transfer the proceeding at one Court. Relevant paragraphs 9 and 10 reads as under :

“9. 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.

10. Further, when two or more proceedings are pending in different Courts between the same parties which raise common question of fact and law, and when the decisions in the cases are interdependent, it is desirable that they should be tried together by the same Judge so as to avoid multiplicity in trial of the same issues and conflict of decisions.”

10. In the present case, admittedly, the applicant has filed the proceeding under Section 9 for restitution of conjugal rights and same is pending before the Family Court, Akola. The proceeding which non-applicant has filed, is under Section 13 of the Hindu Marriage Act, therefore, according to me, the same are inter-dependable, and therefore, it will be advisable to transfer both the proceedings at one Court. Hence, I proceed to pass the following order :

- (a) The application is allowed.
- (b) The proceeding bearing H.M.P. No.187 of 2009 pending on the file of Civil Judge, Senior Division, Pusad, District Yavatmal is hereby transferred to the Family Court, Akola.
- (c) The Civil Judge, Senior Division, Pusad is directed to transfer the record and proceedings of H.M.P.No.187 of 2019 to the Family Court, Akola and to club the same and decided both the matters together accordingly on its own merits.
- (d) No order as to costs.

11. The application stands disposed of accordingly.

(PRAVIN S. PATIL, J.)