



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

MISC. CIVIL APPLICATION (TR) NO.149 OF 2025

[Khushal Pradip Jadhao ..Vs.. Monika @ Chitra Khushal Jadhao]

WITH

MISC. CIVIL APPLICATION (TR) NO.1013 OF 2024

[Monika @ Chitra Khushal Jadhao ..Vs.. Khushal Pradip Jadhao]

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

Court's or Judge's order

Misc. Civil Application No.149 of 2025

Mr V. N. Patre, Advocate for Applicant.

Mr A. P. Deshmukh, Advocate for Non-Applicant.

Misc. Civil Application No.1013 of 2024

Mr A. P. Deshmukh, Advocate for Non-Applicant.

Mr V. N. Patre, Advocate for Applicant.

CORAM : M. W. CHANDWANI, J.

DATE : 24th JULY, 2025.

1. Heard.

2. The parties to both the applications are same; as a matter of fact, they are husband and wife. By both the applications, the respective parties are seeking transfer of the proceedings pending before the Courts at Amravati and Yavatmal. The applicant-husband in Misc. Civil Application No.149 of 2025 is seeking transfer of the custody petition and the petition filed by the wife under Section 12 read with Sections 18, 19, 20, 22 and 23 of the Protection of Women from Domestic Violence Act, 2005. Whereas, the wife by Misc. Civil Application No.1013 of 2024 is seeking transfer of the divorce petition bearing No.A-122 of 2024 from the Family Court, Yavatmal to the Family Court at Amravati. Therefore, these applications are being disposed of analogously.

3. The wife has prayed for transfer of the divorce petition bearing No.A-122 of 2024 filed by the husband before the Family Court at Yavatmal to the Family Court at Amravati on the premise that two proceedings are pending before different Courts at Amravati and the husband is required to attend these proceedings at Amravati. Therefore, these proceedings may also be transferred to the Family Court at Amravati. The wife is totally dependent on her parents who are residing at Amravati and therefore, it will be convenient for her to attend the proceedings at Amravati Family Court. Hence, she sought transfer of the divorce petition from Family Court, Yavatmal to the Family Court at Amravati. To support her case, the learned counsel for the wife relied on the decision of the Hon'ble Supreme Court in the case of **N. C. V. Aishwarya vs A. S. Saravana Karthik Sha, 2022 SCC OnLine 1199** wherein, the Hon'ble Supreme Court in para 11 has held as under :

“11. As notice above, the appellant is a young lady aged about 21 years, staying alone along with her aged parents. Under the above circumstances, it is difficult for her to travel all the way from Chennai to Vellore to attend the court proceedings of the case filed by the respondent seeking annulment of marriage. Further, it is also just and proper to club all the three cases together to avoid multiplicity of the proceedings and conflict of decisions. Therefore, the High Court was not justified in rejecting transfer petition bearing TR. C. M. P. No.473 of 2020, filed by the appellant herein.”

4. On the other hand, the husband has come up with a case that custody proceedings are required to be filed where

the child resides as per the provisions of the Guardians and Wards Act, 1890 (hereinafter referred to as, “the Act of 1890”). Therefore, the custody petition filed by the wife before the Family Court at Amravati is required to be transferred to the Family Court at Yavatmal. It is also contended that the two children begotten from the wedlock are residing with the husband at Yavatmal. Since, the Court has granted visiting rights to the wife to meet her children intermediately at Family Court at Yavatmal, the wife is required to attend the proceedings pending before the Family Court at Yavatmal. The husband is working as Sub-Divisional Water Conservator Officer in the Soil and Water Conservation Department and hence, it will be very difficult for him to attend the Family Court at Amravati. Apart from rejection of the application filed by the wife, the husband is seeking transfer of the custody petition to the Family Court at Yavatmal. There is no dispute to the fact that the children are residing with the husband at Yavatmal and he is taking care of their education and well-being at Yavatmal itself. Visiting rights have been granted by the Family Court, Amravati to the wife to meet her children at Yavatmal Family Court. The wife has to travel from Amravati to Yavatmal anyway.

5. Considering the fact that the children are residing with the husband, who is taking care of their well-being and education apart from attending his duties as a Sub-Divisional Officer in the Soil and Water Conservation

Department and the fact that the wife is otherwise required to travel to Yavatmal, no case is made out for transfer of the divorce proceedings filed by the husband before the Family Court at Yavatmal.

6. So far as the reliance placed by the learned counsel for the applicant-wife upon N. C. V. Aishwarya (supra) to submit that there may be conflicting decisions is concerned, let me state that the parameters of transfer of custody petitions and the divorce petitions are entirely different. That apart, the husband has to take care of his two minor children apart from his responsibility as a Government employee. So far as the request of the husband that the custody petition may be transferred to the Family Court at Yavatmal, in view of Section 9 of the Act of 1890 is concerned, the husband may raise this objection before the Family Court at Amravati.

7. In view of the aforesaid discussion, both the applications are disposed of.

JUDGE

Tambe.