



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

MISC. CIVIL APPLICATION (TR.) NO.1048 OF 2024

Shivani w/o Tejesh Pethe (Shivani d/o Ramesh Rao Dasanpure)
Vs.
Tejesh s/o Digambar Rao Pethe

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

Court's or Judge's orders

Mr. S. D. Chopde, Counsel for the applicant.
Mr. V. S. Sambre, Counsel for the non-applicant.

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

1. By this application, the applicant is seeking transfer of the matrimonial petition No. A-124/2024 pending before the learned Family Court, Yavatmal to the learned Family Court, Akola.

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 13.12.2021 as per the Hindu rights and customs. They both have one daughter aged about 15 months which is along with the present applicant. As there was a matrimonial dispute between them, the applicant constrained to leave the matrimonial house and she preferred Misc. Criminal Application No.1203/2024 before the 3rd Judicial Magistrate First Class, Akola and E-petition No.183/2024 before the Family Court, Akola. Now the non-applicant has filed petition No. A-124/2024

before the Family Court, Yavatmal for Restitution of Conjugal Rights. The applicant is a lady who is residing at the house of her parents as she is not having any shelter. She is having a small daughter of 15 months of whom she has to take care of. There is nobody to escort her to attend the proceeding which proceeding at a distance of 152 Km. Moreover, no maintenance is provided to her and therefore, she is unable to incur the expenses towards the litigation. For all above these grounds the matter be transferred from Family Court, Yavatmal to Family Court, Akola. He further submitted that the non-applicant is already attending the two proceedings at Akola therefore, no prejudice will be caused to the present non-applicant if the matter is transferred.

3. Learned Counsel for the non-applicant strongly opposed the said application on the ground that the distance between two places is only 152 Km and the applicant is not a layperson therefore, the ground raised in the application itself is not tenable. He further submitted that the non-applicant is serving and it would be difficult for him to attend the proceeding at Akola and therefore, the application deserves to be rejected.

4. After hearing both the sides and on perusal of the documents filed along with the application and considering the fact that the applicant is having 15

months old daughter of whom she has to take care. It would be difficult for her to travel along with the small daughter and the applicant also cannot keep the small daughter at home as there is nobody to look after. Moreover, no maintenance is granted or the non-applicant has not made any provision for her expenses and therefore, she is unable to incur the expenses towards the litigation. It is now settled law that when the transfer application is to be considered especially in matrimonial matters, the convenience of the wife is to be looked into. Considering all these aspects, the application deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

- (i) The application is allowed.
- (ii) The petition No.A-124/2024 pending before the Family Court, Yavatmal is hereby withdrawn and transferred to the Family Court, Akola.
- (iii) Both parties shall appear before the Family Akola on **25.02.2025**.
- (iv) The non-applicant is permitted to appear through video conferencing whenever he is unable to attend the proceeding and the Family Court, Akola shall consider his request to appear through video conferencing.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)