



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

MISC. CIVIL APPLICATION (Tr.) NO.554 OF 2024

Seema @ Vaishali w/o Sachin Wankhede (Maiden name Ku. Seema d/o
Ganeshrao Baviskar) and another

Vs.

Sachin @ Pawan s/o Baburao Wankhede

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

Court's or Judge's orders

Mr. J. D. Bastian, Counsel for the applicants.

Mr. S. B. Kakade, Counsel for the non-applicant.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 22/01/2025

1. By this application, the applicant is seeking transfer of the matrimonial proceeding i.e. Hindu Marriage Petition No.476/2023 pending in the Court of 5th Joint Civil Judge Senior Division, Amravati to the Civil Judge Senior Division, Nagpur.

2. Learned Counsel for the applicant submitted that the applicant is the wife of the non-applicant and they married on 12.05.2018, but there was some discord between them and therefore, the applicant constrained to leave at her parents house and thereafter, she filed an application under Section 125 of the Code of Criminal Procedure bearing Criminal M. A. No.158/2020 which is pending before the Judicial Magistrate First Class, Katol. He submitted that the said proceeding is already

attended by the non-applicant. Now the Hindu Marriage Petition is filed by the non-applicant in the Court of 5th Joint Civil Judge Senior Division, Amravati bearing H.M.P. No. 476/2023. The distance between Nagpur to Amravati is more than 150 Km. It is inconvenient for the applicant to attend the proceeding. She has no source to incur the expenses and for all the above grounds, the application deserves to be allowed.

3. Learned Counsel for the non-applicant strongly opposed the said application and submitted that the distance is not too much which would cause the inconvenience to the present applicant. He submitted that there is no sufficient and reasonable cause for seeking the transfer of the application. In view of that, the application deserves to be rejected.

4. After hearing both the sides and on perusal of the record, it reveals that the non-applicant is already attending the criminal proceeding which is pending before the Judicial Magistrate First Class, Katol therefore, no inconvenience would be caused to him if he attended the proceeding before the Civil Judge Senior Division, Nagpur. In view of that, the applicant has made out a case for transfer of the matrimonial proceeding which is pending in the 5th Joint Civil Judge Senior Division, Amravati.

5. Moreover, the Hon'ble Apex Court in the case of **N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha** reported in **AIR 2022 SC 4318** wherein the 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."

6. In view of the judgment of the Hon'ble Apex Court, the application deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

(i) The application is allowed.

(ii) The matrimonial proceeding H.M.P. No.476/2023 pending on the file of 5th Joint Civil Judge Senior Division, Amravati is hereby

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withdrawn and transferred to the Civil Judge Senior Division, Nagpur.

(iii) Both parties shall appear before the Civil Judge Senior Division, Nagpur on 06.02.2025.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)