



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

MISC. CIVIL APPLICATION NO. 447 OF 2025

Sai W/o. Nishikant Deshmukh

Vs.

Nishikant S/o. Pramod Deshmukh

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A. B. Mizra, Advocate for applicant/appellant.
Shri Zeeshan Z. Haq, Advocate for non-applicant.

CORAM :- M. W. CHANDWANI, J.

DATED :- 08.08.2025

Heard.

2. This application has been filed by the applicant/wife for transfer of Hindu Marriage Petition (HMP) No. A-233/2024 filed by the non-applicant/ husband for annulment of marriage under Section 12 of the Hindu Marriage Act, 1955 from the Family Court at Amravati to the Family Court at Nagpur.

3. Shri Mirza, learned counsel for the applicant submitted that the non-applicant has filed the same proceedings before the Superior Court in Washington, United State of America (USA) for annulment of marriage and the applicant has also filed divorce proceedings in the same Court in Washington, USA. Thereafter, the non-applicant fled to India and filed the Marriage Petition for annulment of marriage before the Family Court at

Amravati. According to him, the applicant came to know about the proceedings and sent an email to the Family Court at Amravati but the non-applicant succeeded to get an ex-party order inspite of the email sent by the applicant to Family Court at Amravati. According to him, the applicant has given power-of-attorney to her sister, who is residing at Nagpur to look after the matter. There is a direct flight from San Antonio, Texas (USA) to Nagpur and it will be difficult for her to again travel to Amravati from Nagpur.

4. Mr. Haq, learned counsel appearing for the non-applicant submitted that applicant was aware of the proceedings pending before the Family Court at Amravati in the month of November-2024 and she deliberately did not appear in the matter. He vehemently objected to the application on the ground that, when the applicant can travel all the way from San Antonio, Texas (USA) to Nagpur, it will not be difficult for her to travel a distance of 150 kms to attend the matter at the Family Court at Amravati. It is also contended that she can also attend the proceedings through Video Conferencing (VC). It is also submitted that the non-applicant is residing with his old aged father at Amravati. The application is also objected on the ground that the applicant wants to prolong the matter by filing this application. Therefore, he sought rejection of the application.

5. It is not in dispute that the non-applicant has filed proceedings before the Superior Court in Washington (USA) for the same relief which he is claiming in the petition sought to be transferred. The applicant has also filed a petition for divorce at Washington (USA) and the matter is to be listed on 03.11.2025 before the Superior Court in Washington (USA). The non-applicant at present is residing at Amravati, India, whereas the applicant is residing at San Antonio, Texas (USA). No doubt, the applicant has to come all the way from San Antonio, Texas (USA) to Nagpur and then travel to Amravati to attend the proceeding filed by the non-applicant if the matter is not transferred.

6. We are all aware about the litigation process. Apart from appearing in the matter, a litigant has to appoint counsel, supply various documents, communicate the counsel occasionally to know the progress of the case, before the date of hearing of the case and sometimes even visit the office of the counsel. The applicant has entrusted all this work to her sister, who is residing at Nagpur. The applicant is residing at San Antonio, Texas (USA) and is totally at the mercy of her sister.

7. In the case of ***N.C.V Aishwarya Vs. A.S. Saravana Karthik Sha [2022 AIR SC 4318]***, it has been held by the Supreme Court that the convenience of the wife is to be considered while dealing with the application for transfer. Considering the balance of convenience

which lies in favour of the applicant, a case is made out for transfer of the petition. No prejudice will be caused to the non-applicant if the application is allowed.

8. The learned counsel for the non-applicant submitted that transfer process will take considerable time and the case which is already fixed for evidence, will get prolonged, but that can be taken care of by giving appropriate directions. Hence, I proceed to pass the following order:-

- i) The application is allowed.
- ii) It is directed that HMP No. A-233/2024 be transferred from the file of the Family Court at Amravati to the Family Court at Nagpur.
- iii) Liberty is granted to the non-applicant to appear through VC with the permission of the Family Court at Nagpur, if such facility is available there.
- iv) The Registrar, Family Court, Amravati is directed to make compliance of the order as early as possible, preferably within one month from the date of the order.
- v) To avoid repetition of the service upon the applicant, the service of notice be done on the email ID of the applicant i.e. saipdeshmukh@gmail.com.

(M. W. CHANDWANI, J.)