



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

MISC. CIVIL APPLICATION (TR.) NO.613/2025

Sau. Bhagyashri w/o Anand Kidile
aged about-30 years
Occupation-Household,
R/o C/o Chandrakant Nandane,
Mahananda Nagar, Umarsara
Tq. & Dist.Yavatmal

... APPLICANT

...VERSUS...

Anand s/o Prakash Kidile,
aged about 35 years,
Occupation-Business,
R/o Infront of closed gate of
Model Mill "Suprashans", Bhavan
Karnal Bagh, Nagpur
Tq.& Dist.Nagpur

...NON-APPLICANT

Shri S.S. Bhalerao, Advocate for applicant
None for non-applicant

CORAM : PRAVIN S. PATIL, J.

DATED : 15.12.2025

ORAL JUDGMENT

. Heard.

2. By this application, the applicant is seeking transfer to the proceedings bearing petition No.A-1113/2024 from Family Court No.5, Nagpur to Family Court, Yavatmal.

3. In the present matter, this Court on 11.09.2025 issued notices to the non-applicant. At that time, permission was also granted to the applicant to serve the non-applicant by private mode of service in addition to the regular mode of service. According to the applicant, he has served the non-applicant by private mode. The office note shows that non-applicant was also served on regular mode of service. Thereafter, this matter was listed on 21.11.2025, but, no one appeared on behalf of non-applicant. However, to grant him one more opportunity of hearing, this matter was adjourned for three weeks, so that he can avail the opportunity in the present matter. But, today again, none appeared for the non-applicant in the matter. Hence, I proceed to decide the present application on its own merits.

4. The submission of the applicant-wife is that she is having six years old school going daughter is residing with her. She is taking all care of the daughter. The applicant, who is not having

any earning source, has filed the proceedings under Section 125 of Criminal Procedure Code for grant of maintenance. In the said proceedings, the learned Court has awarded monthly maintenance of Rs.7000/- to the wife and Rs.5000/- to the child. But, non-applicant did not comply the said order. As such, applicant is facing serious financial problems. Accordingly, she has filed proceedings for recovery of the maintenance amount.

5. It is brought to my notice that non-applicant appeared before the Family Court, Yavatmal and moved the application for alteration of the maintenance amount. As such, according to the applicant, non-applicant is already attending one of the proceedings at Yavatmal.

6. It is stated by the applicant that if the proceedings filed by the non-applicant and transferred to the Yavatmal, it will be convenient for her to attend the proceedings at Yavatmal. Further non-applicant is avoiding to pay the regular maintenance to her, so she finds it difficult to attend the proceedings from Yavatmal to Nagpur. All the averments made by the applicant remain uncontroverted due to absence of non-applicant in the matter.

7. As per the law laid down by the Hon'ble Supreme Court in the case of *N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha in Civil Appeal No. 4894 of 2022 (Arising out of SLP (C) No. 16465 of 2021)*, the Hon'ble Supreme Court has specifically observed in para 9 and 10 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.”

8. The Supreme Court has held that in such cases, one of the aspects of behaviour pattern is also required to be considered while deciding the proceedings under Section 24 of the Civil Procedure Code. The applicant has pointed out the behaviour pattern of the non-applicant in the matter and I am satisfied that non-applicant is not following the orders of the Court and not paying regular maintenance amount for which applicant wife is entitled.

9. Hence, for the aforesaid reasons, I am of the opinion that applicant has made out the case for transfer. Hence, I proceed to pass the following order:

ORDER

- i) The application is allowed.
- ii) The petition No.A-1113/2024 is hereby transferred from Family Court No.5, Nagpur to Family Court Yavatmal.
- iii) The Family Court No.5, Nagpur is directed to transfer the record and proceedings of the petition No.A-1113/2024 to the Family Court, Yavatmal.

iv) Family Court, Yavatmal is requested to decide the maintenance as well as the proceedings filed by the non-applicant together or by giving the common date so that it will be convenient for non-applicant to attend both the proceedings at Yavatmal.

10. The application stands disposed of in above terms.

(PRAVIN S. PATIL, J.)

R.S. Sahare