

**HIGH COURT OF MADHYA PRADESH, PRINCIPAL
SEAT AT JABALPUR**

Case No.	MCC No.62/2020
Parties Name	<i>Smt. Aarti Sahu</i> vs. <i>Ankit Sahu</i>
Date of Order	04.09.2020
Bench Constituted	Single Bench
Judgment delivered by	Justice Sujoy Paul
Whether approved for reporting	Yes
Name of counsels for parties	For the applicant: Shri Sourabh Singh, Advocate. For the respondent: Shri Shivam Hazari, Advocate.
Law laid down	<ol style="list-style-type: none"> 1. If short dates are given to the parties, no malice can be attributed on the Court. The applicant has to prove prejudice by showing that because of short dates, her right to defend herself in anyway is adversely affected. 2. Presiding Officer is the guardian of the judicial time and has complete discretion to fix the dates of hearing/proceeding. No interference by this Court is warranted. 3. It cannot be left on the choice of the litigant to decide when his/her matter should be heard/decided. Mere apprehension of not getting an order in his/her favour without any proof thereto cannot be a ground to order transfer of a case.
Significant paragraph numbers	

ORDER
(04.09.2020)

This is an application filed under Section 24 of the Code of Civil Procedure, 1908 (CPC) for transfer of RCSHM Case No.153/2019 filed under Section 13 of the Hindu Marriage Act from Family Court, Sagar to the Court of District & Sessions Judge, Sagar.

2. Shri Sourabh Singh, learned counsel for the applicant submits that in the manner the Family Court is proceeding in the matter, the applicant has no faith in the said Court. The matter may either be transferred to the Court of District & Sessions Judge, Sagar or Family Court, Damoh.

3. In order to point out the alleged impropriety on the part of the Family Court, Shri Singh urged that on 15.7.2019, the notices were issued by the Family Court on the application filed by the other side under Section 13 of the Hindu Marriage Act, 1955. The present applicant appeared before the Family Court on 08.08.2019. Thereafter, the Family Court is proceeding on day to day basis which is arbitrary and is against the interest of applicant. In last five months, 13 hearings have taken place before the Family Court. It is further urged that the applicant preferred a complaint before Registrar(Vigilance) of this Court raising allegations about the improper interest shown by the Court in the instant case. Shri Singh further urged that in many other cases pending before the Family Court for more than one year, no such interest was shown by the Family Court but the extra-ordinary interest shown in the instant case became the reason to approach this Court. Lastly, it is urged that if matter is not transferred from Family Court, non-applicant will get an order any how which will be travesty of justice.

4. The prayer is opposed by Shri Hazari by contending that the orders on which reliance is placed by the applicant shows that in those cases the parties were not local. In other words, since parties' addresses were out of Sagar, the Court in its wisdom might have given longer date to ensure service of notice whereas, in the instant case, both the parties are residing at Sagar.

5. In rejoinder submission, Shri Singh submits that in few cases, where both the parties were residing at Sagar also the Court below has not shown such haste in those cases.

6. No other point is raised by learned counsel for the parties.

7. I have heard the learned counsel for the parties at length.

8. Merely because short dates are given to the parties, no malice can be attributed on the Court. It is not pointed out to this Court as to how short dates have caused prejudice to the applicant. The applicant has not pointed out anything which shows that because of short date given by the court below, her right to defend herself in any way is adversely affected. This is trite that the Presiding Officer is the guardian of the judicial time and has complete discretion to fix the dates of hearing/proceeding. Unless the procedure adopted by the Court amounts to manifest propriety which caused prejudice to any party, this Court is not obliged to interfere. In other words, it is not pointed out from any order-sheet that Court below has committed any error of law or procedure which has caused injustice to the respondents. At the cost of repetition, no inference can be drawn against the Court merely because short dates were given by the Court in a particular matter. I am not inclined to compare the dates of hearing given in this case with other cases because that cannot be a ground to interfere in the matter unless something more is shown. Something which shows that fixing of nearby dates has resulted into injustice to the other side. The applicant appears to have preferred complaint on apprehension before the Registrar(Vigilance). Merely because any complaint is preferred, the matter cannot be directed to be transferred. Similarly, it cannot be left on the choice of the litigant to decide when his/her matter should be heard/decided. Mere apprehension of not getting an order in his/her favour without any proof thereof cannot be a ground to order transfer of a case.

9. In view of foregoing analysis, I find no reason to order transfer of RCSHM Case No.153/2019. Needless to emphasize that Court below shall hear and decide the instant matrimonial matter strictly in accordance with law. The application sans substance and is hereby dismissed.

(Sujoy Paul)
Judge

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