

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

MISCELLANEOUS CIVIL APPLICATION NO. 304 OF 2022

Mrs. Shaheda Bashir Ahmed KotwalApplicant
Versus
Mr. Bashir Ahmed Allisaheb Kotwal and ors.Respondents

Mr. Abhishek R. Avachant along with Mr. S. H. Deshpande,
Advocate for the Petitioner.
None for the Respondents.

CORAM : S. G. DIGE, J.

DATE : 19th DECEMBER, 2022.

P.C. :

1. Heard learned counsel for the applicant.
2. Learned counsel for the applicant submits that the applicant (aggrieved person) has filed criminal miscellaneous application against her husband and parents-in-law under the provisions of Protection of Women from Domestic Violence Act, 2005, before the Judicial Magistrate First Class (for short "the JMFC"), Cantonment Court, Pune, The said application is pending before the JMFC, Cantonment Court, Pune. When the said application was filed, at that time, the applicant was temporarily staying at Pune along with her children. Thereafter, the applicant got

a job at Panvel, hence, she shifted to Panvel. Learned counsel further submits that as the applicant is now residing with her minor children at Panvel, it would be inconvenient for the applicant to travel to Pune leaving her minor children at Panvel and attend the dates of criminal proceedings at Pune. The said travel would lead to hardship. Hence, the applicant seeks transfer of the proceedings viz. criminal miscellaneous application No.708 of 2021 pending before the JMFC, Cantonment Court, Pune to JMFC at Panvel. The applicant has also filed a separate application for transfer of marriage petition filed by her husband i.e. respondent No.1 at Solapur to Panvel. Hence, requested to allow the application.

3. Though respondents are served, none appears for the respondents. After service of notice, the respondents did not appear before this Court. This Court, on last date, had given last chance to the respondents to go on with the matter. Today also, none present for the respondents. Hence, I am deciding this application on merit.

4. The applicant has prayed for transfer of criminal miscellaneous application filed under the provisions of Protection of

Women from Domestic Violence Act, 2005, which is pending before the learned JMFC, Cantonment Court, Pune to JMFC at Panvel. Section 27 of the Protection of Women from Domestic Violence Act, 2005 states about the jurisdiction. It reads thus :

27. Jurisdiction.—

1) The court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which—

(a) the person aggrieved permanently or temporarily resides or carries on business or is employed; or

(b) the respondent resides or carries on business or is employed; or

(c) the cause of action has arisen, shall be the competent court to grant a protection order and other orders under this Act and to try offences under this Act.

Sub-clause (a) of this section provides that the court has jurisdiction where the person aggrieved permanently or temporarily resides or carries on business or is employed.

5. When this proceeding was filed, at that time, the applicant was staying at Pune temporarily. Now, the applicant has shifted to Panvel as she has got a new job there and she is staying there with her two minor children aged 11 years and 8 years respectively. She is also required to look after her children. The

distance between Panvel and Pune is around 120 kms. If these proceedings are kept pending before the JMFC, Cantonment Court at Pune, it would cause inconvenience and hardship to the applicant to attend the dates of the said proceedings.

6. In view of the above, I pass the following order :
 1. The application is allowed.
 2. The proceedings of criminal miscellaneous case No.708 of 2021 pending before the JMFC, Cantonment Court, Pune, be transferred to JMFC, Panvel, District Raigad for its disposal in accordance with law.

The miscellaneous civil application stands disposed of.

(S. G. DIGE, J.)