IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO. 189 OF 2025

ANAND SUDHAKAR SUDAME

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Date: 2025.12.10 19:08:58 +0530

Bhavesh Hasmukhbhai Vasa ..Applicant

Versus

Nisha Bhavesh Vasa ..Respondent

Mr. Piyush Shah a/w. Mr. Dishang Shah & Ms. Kinjal Gogri, Advocates, for the Applicant
Ms. Shaheen Khan, Advocate, for the Respondent

CORAM : RAJESH S. PATIL, J.

DATE : 09.12.2025

P. C.

1. I have received the Mediation Report from Mr. Akil Kureshi, Retired Chief Justice, High Courts of Rajasthan & Tripura thereby informing this Court that the mediation has failed.

2. Hence, I have heard learned Counsel for the parties on merits.

3. By the present transfer Application, the Applicant, who is the husband of the Respondent is seeking transfer of the D. V. proceeding filed by the Respondent seeking relief under the provisions of the Sections 17 to 23 of the Protection of Women from Domestic Violence Act, 2005 (for short "**D.V. Act**") from the Metropolitan Magistrate's Court, Borivali to the Family Court, Bandra, Mumbai.

4. The Family Court, Bandra, Mumbai, will have jurisdiction to hear proceeding under Section 26 of the D. V. Act. Section 26 reads as under :-

> **26. Relief in other suits and legal proceedings.-**
>
> (1) Any relief available under sections 18, 19,20, 21 and 22 may also be sought in any legal proceeding, before a civil Court, family Court or a criminal Court, affecting the aggrieved person and the respondent whether such proceeding was initiated before or after the commencement of this Act.
>
> (2) Any relief referred to in sub-section (1) may be sought for in addition to and alongwith any other relief that the aggrieved person may seek in such suit or legal proceeding before a civil or criminal court.
>
> (3) In case any relief has been obtained by the aggrieved person in any proceedings other than a proceeding under this Act, she shall be bound to inform the Magistrate of the grant of such relief.

5. In the judgment of ***Misc. Civil Application No. 239 of 2024 (Jyoti Abhijeet Kandage vs. Abhijeet Narayan Kandage & Ors.),*** I have taken a view that if the parties are seeking transfer of the proceeding under the D. V. Act, apart from Sections 18 to 22, the said proceedings cannot be transferred and be heard by the Family Court.

6. Paragraphs 15, 15.1, and 15.2 read as under:

> 15) Considering the Sections of D.V. Act, and the Judgments discussed in the above paragraphs, it becomes evident that Family Court has power to decide complaint which seeks relief under Sections 18 to 22 of the D.V. Act. Hence in my opinion, transfer of proceedings from Magistrate's Court to Family Court pertaining to relief claimed under Section 18 to 22 of the D.V. Act can be allowed. However, if a transfer proceedings is not a bonafide one, then on merits such a transfer on case to case basis can be rejected. One has

> to also keep in mind the stage of the proceedings of which transfer is sought.
>
> 15.1) Section 26 of D.V. Act, refers to only reliefs sought under Section 18 to 22. Therefore, application/complaint seeking relief under any other section of D.V. Act viz. Section 31, etc. would not be maintainable before Family Court.
>
> 15.2) So also, one has to also keep in mind who is coming to the court for the transfer of the proceedings, whether it is the Wife or the Husband or any other party. Since a choice is given to the aggrieved person under the D.V. Act to choose the forum for reliefs sought under Section 18 to 22, (i.e.) before the Magistrate under Section 12 or to the civil court, family court or criminal court under Section 26, such transfer if sought by a Wife, considering the judgment of the Supreme Court in the case of ***N.C.V. Aishwarya*** (supra) will have to be considered favourably.
>
> (Emphasis supplied)

7. In the present proceeding, the Applicant – husband is seeking transfer of the D. V. proceeding, wherein the Respondent – wife is seeking reliefs apart from Sections 18 to 22, also under Sections 17 & 23 of the D. V. Act, hence, in my view, such Application for transfer cannot be considered.

8. The Miscellaneous Civil Application **stands rejected**.

(RAJESH S. PATIL, J.)