



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 22/2025

MUKESH SHITAL GUPTA

..APPLICANT

VS

DEEPIKA MUKESH GUPTA

..RESPONDENT

Adv. Ketki Gadkari a/w. Adv. Aditya R. Parmar for applicant.

Adv. Ajay A. Joshi for respondent.

CORAM : RAJESH S. PATIL, J.

DATE : 11 NOVEMBER 2025.

P.C. :

1. This transfer application has been filed by the applicant who is husband of the respondent seeking transfer of the Domestic Violence Proceeding filed by the respondent, wife before the Judicial Magistrate First Class, Pune to the Family Court at Pune.

2. The respondent has filed the Domestic Violence proceedings with the Judicial Magistrate First Class, Pune, thereby seeking prayers under Sections 17 to 23 of the Domestic Violence Act.

3. Section 26 of the Domestic Violence Act permits only the aggrieved party to file proceedings under Sections 18 to 22 also

before the Civil Court/ Family Court/Criminal Court. Hence, the Family Court will have no jurisdiction to entertain the application under Section 17 or 23 of the Domestic Violence Act.

4. The Hon'ble Supreme Court in case of ***N.C.V. Aishwarya vs. A.S.Saravana Karthik Sha***, reported in ***2022 SCC OnLine SC 1199*** has held that the convenience of the wife has to be seen for the transfer proceedings. Paragraph no.9 of the said judgment reads 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.

(Emphasis supplied)

5. I have already held in ***Misc. Civil Application No. 239 of 2024 (Jyoti Abhijeet Kandage vs. Abhijeet Narayan Kandage & Ors.)*** that reliefs under Sections 18 to 22 of the Domestic Violence Act, can even be filed before the Family Court under the provisions of Section 26 of the Domestic Violence Act. 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.

6. The applicant is working as an I.T. consultant at Pune, and after hearing learned counsel for the applicant, I had shown my disinclination to entertain the Misc. Civil Application, I asked the learned counsel for the applicant whether she would like to withdraw the present proceeding. At that time, she sought time to take instructions from her clients, and the matter was kept back, after some time the matter was called out again, when she insisted upon an order be passed on merits.

7. Considering the law as laid down in the above two judgments, and the facts of the present matter, I find no merits in the present Misc. Civil Application.

8. At this juncture, learned counsel for the respondent pressed for

imposing cost on the applicant for wasting judicial time when lots of litigants are waiting for their turn.

9. Thus, present Misc. Civil Application stands rejected with cost of Rs.1 lakh to be paid to the respondent within a period of four weeks from today.

10. Misc. Civil Application is disposed of accordingly.

(Rajesh S. Patil, J.)