

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISCELLANEOUS CIVIL APPLICATION NO. 384 OF 2024**

Sonal Vinay Runwal, Alias Sonal Abhay Kumar Kothari ..Applicant

Versus

Vinay Mahendra Runwal ...Respondent

Mr. Rahul R. Shelke, with Akshata Karale, for the Applicant.

CORAM: N. J. JAMADAR, J.

DATED : 3 JANUARY 2025

P.C.:

1. Heard learned Counsel for the Applicant. The learned Counsel for the Applicant submitted that the Respondent has been duly served. An Affidavit of Service has been filed.

2. The Applicant-wife seeks re-transfer of the proceedings under Protection of Women from Domestic Violence Act, 2005 (“DV Act”), from Family Court at Thane to the Court of Judicial Magistrate, First Class, Thane.

3. The Applicant had preferred Miscellaneous Civil Application No. 53 of 2021 seeking transfer of Marriage Petition No. 95 of 2020 instituted by her husband for restitution of conjugal rights from the

ARUN
RAMCHANDRA
SANKPAL

Digitally signed by
ARUN RAMCHANDRA
SANKPAL
Date: 2025.01.04
13:19:56 +0530

Court of Civil Judge, Senior Division, Jaysinghpur, District Kolhapur to the Family Court at Thane. By an Order dated 5th April 2021, the said Application was allowed.

4. Thereafter, the Respondent preferred Miscellaneous Civil Application No. 431 of 2022 before this Court, seeking transfer of proceedings under DV Act. By an Order dated 24th February 2023, DV Application No. 30 of 2021 filed by the Applicant, which was then pending on the file of the JMFC, Thane was transferred to the Family Court, Thane, in view of the transfer of HMP to the Family Court.

5. Subsequently, the Respondent-husband has withdrawn the said Matrimonial Petition for restitution of conjugal rights.

6. The learned Counsel for the Applicant submitted that the Respondent played a trick on the Court. The proceedings under DV Act was transferred from the Court of JMFC, Thane, to the Family Court, Thane on the ground that the Petition for restitution of conjugal rights was pending on the file of Family Court. However, no sooner the learned JMFC passed an order directing payment of maintenance in the proceedings under the DV Act, the Respondent/husband immediately withdrew the HMP. The Applicant is hence left in the lurch.

7. The submission on behalf of the Applicant appears well-founded. The only reason for transfer of the proceedings under the DV Act from the Court of learned JMFC, Thane to the Family Court, Thane, was the

pendency of the HMP No. 95 of 2020. It is necessary to note that while directing the transfer, this Court had made it clear that the proceedings under the DV Act be transferred only after the interim maintenance application filed by the wife was decided by the learned JMFC, Thane. The situation which now obtains is that the proceedings under the DV Act stand transferred to the Family Court, though the HMP has been withdrawn.

8. In the aforesaid view of the matter, it would be in the fitness of things, to re-transfer the proceedings under the DV Act to the Court of learned JMFC, Thane, so that the said proceedings can be expeditiously and effectively prosecuted.

9. The Application thus stands allowed in terms of prayer clause (a). The proceedings under the DV Application No. 30 of 2021 stand transferred from the file of Family Court at Thane to the Court of JMFC, Thane.

10. The proceedings be transferred within a period of four weeks from the date of communication of this order.

11. Application disposed.

[N. J. JAMADAR, J.]