



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 431/2024

SUBHRA NARAYAN BOSE

..APPLICANT

VS

DIPANISHA SUBHRA BOSE

..RESPONDENT

Adv. Sambhavi Bhosle i/b. Adv. Shilpa Joshi for applicant.

CORAM : RAJESH S. PATIL, J.

DATE : 5 DECEMBER 2025.

P.C. :

1. This transfer application has been filed by the applicant who is the husband of the respondent seeking transfer of the domestic violence proceeding filed by the respondent-wife before the Metropolitan Magistrate, 67th Court, Borivali, Mumbai to the Family Court at Bandra.

2. Bare perusal of the domestic violence proceedings which has been attached to present Misc. Civil Application at page 32, shows that the relief under Sections 17 to 23 of the Protection of Women From Domestic Violence Act, 2005, has been sought by the respondent.

3. In the judgment of *Misc. Civil Application No. 239 of 2024*

(Jyoti Abhijeet Kandage vs. Abhijeet Narayan Kandage & Ors.) I have held that reliefs under Sections 18 to 22 of the Domestic Violence Act, can even be sought before the Civil Court, 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.

(Emphasis supplied)

4. In view of the above, **present Misc. Civil Application stands rejected.**

(Rajesh S. Patil, J.)