

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

***CIVIL APPELLATE JURISDICTION***

**MISCELLANEOUS CIVIL APPLICATION NO. 558 OF 2024**

**Shashi Bolanb Sakhare**

**..... Applicant**

**VERSUS**

**Deepali Shari Sakhare & Ors.**

**..... Respondents**

Mr. Rahil Siddiqui for the Applicant (Appointed through Legal Aid).

**CORAM : RAJESH S. PATIL, J.**

**DATE : 15 SEPTEMBER , 2025**

**P.C. :-**

1) This transfer application has been filed by the husband seeking transfer of DV proceedings filed by the wife at Nashik to the Judicial Magistrate First Class at Belapur.

2) The only ground stated in the transfer application is that Section 26 of the DV Act empowers a civil Court including the Family Court to grant relief under Sections 18 to 22. It is further stated that there is no bar on the Family Court to try DV proceedings.

3) Considering the fact that admittedly the distance between Belapur and Nashik is around 262 km and the Applicant is working in a private sector. It will be the wife who will be at inconvenience more

than the husband.

4) The Hon'ble Supreme Court in case of ***N.C.V. Aishwarya vs. A.S.Saravana Karthik Shah***, reported in ***2022 SCC OnLine SC 1199***, has held in transfer petition, convenience of the wife is to given more weightage. Paragraph (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.

4) A Single Bench of this Court (Coram : Arun R. Pednekar, J.) in case of ***Anuraag Agarwal vs. Poonam Agarwal nee Mukim*** in ***Miscellaneous Civil Application No. 159 of 2023*** decided on 9 July, 2024, has held that if the conflict of judgment is the sole ground of transfer, every transfer petition filed by the husband will have to be allowed. Paragraph No.15 of the said judgment reads as under :-

15. If conflict of judgment on same facts and between the same parties is the sole ground of transfer, every transfer petition filed by the

husband will have to be allowed by this Court making the choice of wife to approach the Magistrate meaningless. The choice available to the wife file application either under section 12 or under Section 26 of the D.V. Act would be rendered nugatory. In the Application under Section 12, the Magistrate is required to make an endure to decide it in 60 days, whereas is a transfer petition is entertained by this Court it consume substantial time rendering the mandate of Section 12 of expeditious disposal nugatory.

5) Considering the facts of the present case and the law laid down by the Hon'ble Supreme Court, I do not find any reason to entertain the present petition. Ideally this petition requires to be dismissed with cost. However, the present applicant has filed petition through appointed advocate by the Legal Aid Committee of the High Court, Bombay, hence, I am not imposing any cost.

6) **Miscellaneous Civil Application stands rejected.**

**[RAJESH S. PATIL, J.]**