

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO. 53 OF 2025

Samruddhi Kushal Navghare

..Applicant

Versus

Kushal Ganesh Navghare

..Respondent

Mr. Sameer Tendulkar, Advocate, for the Applicant

Mr. M. V. Thorat, Advocate, for the Respondent

CORAM : RAJESH S. PATIL, J.

DATE : 14.10.2025

P. C.

1. This is a transfer Application filed by the Applicant, who is the wife of the Respondent seeking transfer of MCA No. 1 of 2025 pending before the Additional District & Sessions Court, Palghar to the Additional District & Sessions Court, Chiplun, District – Ratnagiri.

2. It is the case of the Applicant – wife that she is residing at Chiplun with her parents after marital discord with her husband. The distance between Palghar and Chiplun is around 363 Kms and there is no direct public transport from Chiplun to Palghar. The Applicant is a homemaker and she is entirely dependent on her parents, mentally and emotionally. The Respondent is a well known jeweller of Dahanu. He is having ground + one storey jewelry shop, as well as 2 four wheelers. It

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is extremely difficult for the Applicant to travel 363 Kms to attend the Court proceeding and come back at home on the same day travelling 363 Km. Therefore, she will have to stay overnight at Palghar.

3. Mr. Thorat, learned Counsel for the Respondent submitted that the proceedings have already started at Palghar. The Applicant has attended the proceedings at Palghar. Therefore, it is prayed that the proceedings should not be transferred. The hearing of the proceedings can be expedited and that will suffice the purpose. In any case, custody of the children aged 14 years and 11 years is with the Respondent – husband. It would be difficult for the Respondent – husband to travel to Chiplun along with the children to attend the Court proceedings.

4. The Supreme Court in the case of ***N. C. V. Aishwarya vs. A. S. Sarvana Karthik Sha***, reported in ***2022 SCC OnLine SC 1199*** has held that considering transfer proceedings, convenience of the wife has to be taken into consideration. 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 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. In the case of Jyoti Abhijeet Kandage vs. Abhijeet Narayan Kandage (Misc. Civil Application No.239 of 2024), I have considered all the provisions as far as transfer proceedings are concerned. In paragraph No.15 and 15.2, it has been held 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.

15.2) 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. Considering the ratio laid down by the Supreme Court in the case of **N. C. V. Aishwarya (Supra)**, and the view taken by me in the

above Judgment of *Jyoti Abhijeet Kandage(Supra)*, and considering the fact that the distance between two places is 363 Kms and the wife is not living in city from where she can easily travel and return back at her home.

7. Therefore, according to me, a case is made out to allow the Application. The Miscellaneous Civil Application is allowed in terms of **prayer clause (a)**.

8. The hearing for the MCA No. 1 of 2025 is expedited after transfer.

(RAJESH S. PATIL, J.)