

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****MISCELLANEOUS CIVIL APPLICATION NO. 356 OF 2025****ANNURADHA ARUN POTE****ALIAS ANNURADHA JAYPRAKASH GHULE****..... APPLICANT****VERSUS****ARUN DINKAR POTE****..... RESPONDENT**

Adv. Pooja Makhija (Thr. V.C.) for the Applicant.

Adv. Jayant Bardeskar for the Respondent.

CORAM : RAJESH S. PATIL, J.**DATE : 21 NOVEMBER, 2025****P.C. :-**

1) By the present transfer proceeding the applicant, who is the wife of the respondent, is seeking transfer of three proceedings, viz. (a) divorce proceedings filed by the husband before the Civil Judge Senior Division, Jaysingpur, District Kolhapur to the Family Court at Pune and to be heard alongwith (b) the maintenance application filed under Section 144 of the Bharatiya Nyaya Sanhita, 2023 filed before the Judicial Magistrate First Class, Khadki to the Family Court at Pune and also (c) the DV proceeding filed before the Judicial Magistrate First Class, Khadki to be transferred to the Family Court at Pune.

2) I have heard learned advocates for both the sides and I have gone through the documents on record.

3) 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 also be sought by aggrieved person 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.

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 while deciding 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) Considering the law as laid down by the Supreme Court in the above judgment, and as held by me in the judgment of ***Jyoti Abhijeet Kandage*** (supra), the DV proceedings which are seeking relief apart from Sections 18 to 22, also under Sections 13, 15, 16, 17 and 23 of the Domestic Violence Act which cannot be transferred from the Judicial Magistrate First Class Court to the Family Court.

5.1) Therefore, the relief for transfer of the DV proceedings from Judicial Magistrate First Class, to the Family Court, Pune is hereby rejected.

6) However, as far as the divorce proceeding filed by the husband are concerned, the same has been filed by the husband before the Civil Judge Senior Division, Jaysingpur, Kolhapur.

7) The learned advocate appearing for the applicant submits

that the applicant-wife is staying in Pune City, in the locality called as Khadki. The distance between Khadki and Kolhapur is around 260 kms. There are two sons born out of the wedlock of the applicant with respondent. The elder son is staying with the husband and the younger son who is 7 years of age, is staying with the applicant-wife. As the distance between two places is around 260 kms, it cannot be expected that the applicant-wife will travel 260 kms to attend the court proceedings at Kolhapur and return back on the same day by 260 kms.

8) As of today, the respondent-husband is not paying any maintenance to his wife and even to his son. It has been argued before me that the respondent-husband is waiting for the court to pass order in the Interim Maintenance Application filed by the wife. In such a situation, according to me, where the wife has volunteered to transfer her Interim Maintenance Application preferred before the Judicial Magistrate First Class, Khadki to the Family Court at Pune and to be heard alongwith divorce proceeding filed by the husband, I am convinced that this Miscellaneous Civil Application only to that extent can be allowed.

8.1) **Miscellaneous Civil Application stands partly allowed.**

8.2) Marriage Petition No. 97 of 2022 filed by the respondent-

husband before the Civil Judge Senior Division, Jaysingpur be transferred to the Family Court at Pune.

8.3) So also, the Criminal Misc. Application No. 214 of 2025 filed before the 12-2nd Judicial Magistrate First Class, Khadki be transferred to the Family Court, Pune.

8.4) Both the proceedings to be heard by the one and the same Judge. Hearing of both the proceedings is hereby expedited.

8.5) So also, hearing of domestic violence complaint bearing Criminal MA No. 202 of 2022 pending before the Judicial Magistrate First Class, Khadki is also expedited.

9) Both the parties through their learned advocates undertake before this Court that they will not seek unnecessary adjournments before the Family Court, Pune and before the Judicial Magistrate First Class, Khadki in the interim maintenance application filed in the Criminal Misc. Application No. 214 of 2025, and also Interim Maintenance Application filed in the DV proceeding No.202 of 2022, the hearing of the same is hereby expedited and to be decided on its own merits within a period of three months from today.

10) The parties to act on the authenticated copy of this order.

11) The applicant is permitted to furnish a copy of this order to the Family Court at Pune.

12) So also, the Registrar (Judicial-I) would inform to the Registrar of the Family Court, Pune via e-mail, the order passed today in the present proceeding.

[RAJESH S. PATIL, J.]