

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO. 399 OF 2025

Vishwanath Trimbak Lokare

..Applicant

Versus

Sugandha Vishwakant Lokare

..Respondent

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Mr. Vinod Sangvikar a/w. Mr. Shubham Sonawale, Advocates, for the
Applicant

Ms. Sugandha Lokare, Respondent-in-person present

CORAM : RAJESH S. PATIL, J.

DATE : 14.10.2025

P. C.

1. This is a transfer Application filed by the Applicant, who is the husband of the Respondent seeking transfer of the D. V. proceedings pending before the learned JMFC, Vashi at Belapur to the Family Court, Belapur.

2. It is the case of the Applicant – husband that already divorce proceedings has been filed by him which are pending before the learned Family Court, Belapur. If the D. V. proceedings are transferred to the Family Court, Belapur, both the proceedings will be tried together. There will be no hardship to the Respondent, if the proceedings are clubbed together. In fact, it will save time of the parties. Section 26 of the Protection of Women from Domestic Violence

Act, 2005 (“**PWDVA**”) permits to hear the relief sought under Sections 18 to 22 of the PWDVA before the Family Court. Parties and witnesses would be common. Therefore, in order to avoid duplication and multiplicity of the proceedings, the D. V. proceeding needs to be transferred to the Family Court, Belapur.

3. The Respondent has appeared in person. She has submitted that the Applicant – husband is working as ‘Deputy Engineer’ and is also in charge as Executive Engineer, in Navi Mumbai Municipal Corporation. He is staying with a lady with whom he has illicit relationship. He has transferred his property in the name of the said lady.

4. The Applicant is homemaker staying with her son, aged 25 years and daughter, aged 24 years. The Applicant – husband is not paying any kind of maintenance to the Respondent – wife. There are various Orders passed imposing fine on the Applicant, because though the Applicant – husband’s mother tongue is marathi, he sought for the documents of the Respondent to be translated in English and be handed over to him. Therefore, the Court has imposed a fine of Rs. 1,000/- on the Applicant. So also a fine of Rs. 5,000/- was also imposed on the Applicant for belatedly filing the documents in Court.

5. 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 while 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)

6. 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.”

7. Considering the law laid down by the Supreme Court in the case of ***N. C. V. Aishwarya (Supra)***, view taken by me in the above Judgment of ***Jyoti Abhijeet Kandage (Supra)*** and considering facts of the present proceedings where the Applicant though working as officer of the Navi Mumbai Municipal Corporation has not bothered to pay any kind of maintenance to the wife or to the children and there are allegations that he is staying with lady and having illicit relationship with her. In such situation, I have no hesitation in my mind to hold that the present Application is devoid of merits and the same requires to be dismissed with costs.

8. The Miscellaneous Civil Application stands rejected with costs of Rs. 1,00,000/- to be paid by the Applicant to the Respondent – wife within a period of four weeks from today.

(RAJESH S. PATIL, J.)