



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 410/2025

Amit Arun Sawalakhe

..APPLICANT

VS

Anuja Amit Sawalakhe

..RESPONDENT

Adv. Rahul Shelke a/w. Adv. Akshada Karale, Adv. Aditi Kore for
applicant.

None for respondent.

CORAM : RAJESH S. PATIL, J.

DATE : 17 NOVEMBER 2025.

P.C. :

1. The present transfer application has been filed by the respondent, husband seeking transfer of the domestic violence proceeding filed by the respondent, wife from the Judicial Magistrate First Class, Cantonment Court, Pune to the Family Court at Pune.

2. The domestic violence proceeding has been filed seeking relief under Sections 13 to 23 of the Domestic Violence Act.

3. I have already taken a view in *Misc. Civil Application No. 239 of 2024 (Jyoti Abhijeet Kandage vs. Abhijeet Narayan Kandage & Ors.)* that if the relief apart from Section 18 to 22 are sought in the domestic violence proceeding, the same cannot be transferred under

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. As I have shown my disinclination to allow present Misc. Civil Application, learned counsel for the applicant seeks liberty to withdraw the Misc. Civil Application.

5. The Misc. Civil Application stands disposed of as withdrawn.

(Rajesh S. Patil, J.)