

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2889 OF 2025

1. Kalpana Kirit Shah ...Petitioners
2. Dharmesh Kirit Shah
3. Kirit Murji Shah

Versus

1. State of Maharashtra Through The Office of ...Respondent
the Govt. Pleader
2. The Registrar, Bombay City Civil and Sessions
Court, Greater Mumbai.
3. The Registrar General

**Mr Bhavesh Parmar with Reshma Nair, Rajesh Sahani i/by Sonali
Kunekar, for the Petitioners**

Shri Milind More – Addl. GP, for the Respondent-State.

**Dr. Milind Sathe, Senior Advocate with Shailendra S. Kanetkar, for
the Respondent Nos. 2 and 3**

**CORAM: SUMAN SHYAM &
S. M. MODAK, JJ.**

DATED: 12th NOVEMBER 2025.

PC:-

1. The Petitioners herein are the Plaintiffs, in Suit No. 4358 of 2024, pending before the City Civil Court, Main branch, Fort, Mumbai. After the enhancement of pecuniary jurisdiction of the Bombay High Court to try the suits on the Original side to Rs. 1 Crore, vide Bombay City Civil Court (Amendment) Act, 2012, several Civil Suits, pending before the High Court were transferred to the City Civil Court. Consequently, a notice was issued by the Registrar (Original Side)/Prothonotary and Senior Master, High Court, Bombay on 16.04.2014, *inter-alia* laying down certain

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guidelines for transfer of cases from the Division of City Civil Court to Dindoshi Court. The relevant part of the notice dated 16.04.2014 is reproduced herein below:-

*“They are hereby further informed that all Suits which have been transferred from Bombay High Court and pending in the City Civil Court at Greater Bombay in which the cause of action has arisen within the jurisdiction of the Division of the City Civil Court at Dindoshi will be transferred to the Court at Dindoshi **provided all contesting parties appearing before the Court agree for transfer.** It will be open for the parties to file no objection in writing for transfer of Suits before the City Civil Court at Greater Bombay.”*

2. Thereafter, the Bombay City Civil Court (Amendment) Act, 2023 was enacted, further increasing the pecuniary limits of the City Civil Court to Rs. 10 Crore, as a result of which, more cases were transferred to the City Civil Court.

3. Accordingly, Office Circular No. 18 of 2024, was issued by the Registry laying down similar Guidelines for transfer of the suits from the Civil Court, Main branch to the Court at Dindoshi as contained in the notice dated 16.04.2014.

4. The grievance of the Petitioner is pertaining to the directives contained in the notice dated 16.04.2014 as well as the Office Circular No. 18 of 2024 on the grounds that the same has the effect of denuding the Principal Judge of his authority under Section 7 (c) of the Bombay City Civil Court Act, 1948, to transfer

Civil Suits to the Dindoshi Court even without the consent of the parties. It is submitted that under Section 7 (c) of the Act of 1948, the final authority for distribution of the business of the Court amongst the various Judges in City Court is conferred on the Principal Judges. Therefore, the Registry of the High Court cannot put fetters on exercise of such statutory power conferred upon the Principal Judge.

5. Dr. Sathe, the learned Senior counsel appearing for the Respondent No. 2 submits that the directives contained in notice dated 16.04.2014 and the Circular No. 18 of 2024 only applies to transfer of the proceedings from the City Civil Court, Main branch to the Dindoshi Court by the Registry, on its own motion and the same does not in any manner, interfere with the jurisdiction and authority of the Principal Judge as conferred under Section 7 (c) of the Bombay City Civil Court Act 1948.

6. According to Dr. Sathe, the learned counsel appearing for the Respondent No. 2, if an application is moved before the Principal Judge invoking his power under Section 7 (c) of the Bombay City Civil Court Act 1948, it will be open for the concerned Judge to pass appropriate order in respect thereof in accordance with law.

7. A bare reading of the proviso to Rule 7 of the Bombay City Civil Court (Transfer of Suits) Rules, 2012 framed in exercise of powers conferred by Section 4B of the Bombay City Civil Court Act, 1948 prima-facie goes to show that the mandate of Rule 7 requiring all Suits and/or proceedings so transferred to the Bombay City Civil Court to be heard at the Principal Seat is not in

derogation of the power of the Principal Judge under Section 7(c) of the Principal Act. If that be so, we find force in the submission of Dr. Sathe that impugned notice/office circular will operate in a separate field, without encroaching upon the power or authority of the Principal Judge under Section 7 (c) of the Act of 1948. That apart the Principal Judge would also have jurisdiction and authority, under Section 24 of the Civil Procedure Code to transfer any suit or proceeding to an appropriate court within the District by issuing a judicial order.

8. After hearing the submissions made at the bar and in view of the stand taken by learned counsel for the Respondent No. 2 as noted above, we are of the view that the Writ Petition can be disposed of by granting leave to the Petitioner to move appropriate application under Section 7 (c) of the Act of 1948, for transfer of the suit.

9. We make it clear that if such application is filed by the Petitioner, the same shall be considered by the learned Principal Judge, on its own merits and dispose of the same by appropriate order, without being influenced by the Office Circular No. 18 of 2024 and notice dated 16.04.2014.

10. With the above observations, the Writ Petition stands disposed of.

(S. M. MODAK, J.)

(SUMAN SHYAM, J.)