

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

MISCELLANEOUS CIVIL APPLICATION NO. 418 OF 2024

Sidhant Suresh Rastogi

..Applicant

Versus

Aradhana Sidhant Rastogi

..Respondent

Mr. Prasanna Bhangale i/b. Mr. Advait U. Shukla, Advocates, for the Applicant

Mr. Mahadev Chaudhari i/b. Mr. Amit R. Pandey, Advocates, for the Respondent

CORAM : RAJESH S. PATIL, J.

DATE : 25.03.2026

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1. By the present transfer Application, the Applicant, who is the husband of the Respondent – wife is seeking transfer of the D. V. proceeding filed by the Respondent – wife before the Magistrate's Court, Andheri, Mumbai to the Family Court, Bandra, Mumbai.

2. It is the case of the Applicant – husband that there is a divorce proceeding filed by the Respondent – wife before the Family Court, Bandra, Mumbai and the matter is at the stage of recording evidence. Similarly, the D. V. proceeding pending before the Magistrate's Court, Andheri, Mumbai is also at the stage of recording evidence. He submitted that therefore, both the proceedings may be clubbed together and may be heard by one and the same Judge.

3. In the judgment of *Misc. Civil Application No. 239 of 2024 (Jyoti Abhijeet Kandage vs. Abhijeet Narayan Kandage & Ors.)* I have held that reliefs under Sections 18 to 22 of the Domestic Violence Act, can even be sought before the Civil Court, Family Court, under the provisions of Section 26 of the Domestic Violence Act and one has to also see the stage of the proceeding. Paragraphs 15 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.

15.2) 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.

(Emphasis supplied)

4. Considering the fact that the D. V. proceeding as per the learned Counsel for the Applicant is at the stage of recording evidence,

according to me, there is no merit in the present Miscellaneous Civil Application and the same **stands dismissed**.

(RAJESH S. PATIL, J.)