

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO. 371 OF 2025

ADITYARANJAN MADHURANJAN SINGH

..... APPLICANT

VERSUS

PRIYANKA SINGH

..... RESPONDENT

Adv. Hrishikesh Avhad a/w. Adv. Sachin R. Pawar for the Applicant.

CORAM : RAJESH S. PATIL, J.

DATE : 10 NOVEMBER, 2025

P.C. :-

1) This transfer Application is filed by the Applicants seeking transfer of the Domestic Violence proceedings filed by the respondent before the Judicial Magistrate First Class, Pune to the Family Court, Pune.

2) The D. V. proceedings is filed under Sections 12, 19, 20, 22 & 23 of the Domestic Violence Act. As per the cause title, the Applicants are staying at Navi Mumbai and the Respondent is staying at Pune.

3) I have heard learned advocate appearing for the applicant. The applicant who is husband of the respondent, is seeking transfer of Domestic Violence proceeding filed by the respondent-wife.

The said proceeding is filed under Sections 12, 19, 20, 22 and 23 of the Divorce Violence Act.

4) Section 26 of the Domestic Violence Act permits only the aggrieved party to file proceedings under Sections 18 to 22 also before the Civil Court/ Family Court/Criminal Court. Hence, the Family Court will have no jurisdiction to entertain the application under Section 17 or 23 of the Domestic Violence Act.

5) 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 for 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)

6) 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 even be filed 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.

7) In the present proceeding, the domestic violence is also involved Section 23 of the Domestic Violence Act. Therefore, in my view, the Domestic Violence proceeding cannot be transferred from the Judicial Magistrate First Class, Pune to the Family Court, Pune as the Family Court has no power to deal with Section 23 of the Domestic Violence Act.

8) Considering the law as laid down in the above two judgments, and the facts of the present matter, I find no merits in the

present Miscellaneous Civil Application.

9) In view of the same, the present **Miscellaneous Civil Application stands rejected.**

10) As the learned advocate for the applicant desires that the dispute between the parties can be referred to the mediation, the parties are free to apply to the District Mediation Centre, Pune to refer their dispute for mediation.

[RAJESH S. PATIL, J.]