

CIVIL APPLICATION (STAMP) NO. 31078 OF 2016
IN
APPEAL FROM ORDER (STAMP) NO. 27652 OF 2016

 $1/3$

to contend that she had already filed the proceedings under the Protection of Women from Domestic Violence Act, 2005 (for short, '**D.V. Act**'). It is urged that on the basis of the said statement this Court has been pleased to pass the impugned order. However, on inquiries made by the Applicants, it was found by the Applicants that the said statement is not correct. As on today also, no such proceedings under the D.V. Act are pending before the Court.

4] However, the documents produced on record by Respondent No.2 at page 123 of the compilation in the said Appeal clearly reveal that Respondent No.2 had already approached the Protection Officer in the month of July 2016 (i.e. 28th July 2016) and Protection Officer had prepared the 'Report' on 29th July 2016 under Section 12 of the D.V. Act. The Protection Officer had, accordingly, filed the complaint in the Court of Additional Chief Metropolitan Magistrate, 24th Court, Borivali, Mumbai.

5] In view thereof, it can hardly be accepted that Respondent No.2 has made any false or incorrect statement or on the basis of such statement, this Court has passed the impugned order. Therefore, there is no merit in this application and hence, it stands

dismissed.

6] As regards the affidavit filed by Respondent No.1 pointing out to certain subsequent developments after the order was passed by this Court, needless to state that Respondent No.2 or for that matter all the parties are at liberty to approach the trial Court in view of the subsequent development, if any.

7] It is further clarified that, if any, application is made before the trial Court by any of the parties, it would be decided on its own merits. All the contentions of the parties are kept open.

[DR.SHALINI PHANSALKAR-JOSHI, J.]