

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION (ST.) NO.16740 OF 2018

Rishabha Vohra	 Applicant
V/s.	
Ankit Vohra and Ors.	 Respondents

Mrs. Taubon F. Irani for the Applicant.

Mrs. Madhubala P. Shetty for the Respondents.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 1ST AUGUST, 2018.

P.C. :

1. Heard Mrs. Irani, learned counsel for the Applicant, and Mrs. Shetty, learned counsel for the Respondents.

2. This Miscellaneous Civil Application is filed, under Section 24 of the Code of Civil Procedure, 1908, for transferring Case No.1100022/DV/2015, pending in the Metropolitan Magistrate's 11th Court at Kurla, Mumbai, to the Family Court at Bandra, Mumbai; to be heard and decided along with Petition No.A-1703 of 2013 and Petition No.C-90 of 2013, pending before the Family Court at Bandra, Mumbai.

3. The Applicant is the wife. It is her contention that, she has filed

this Miscellaneous Civil Application for the various reliefs, under the Domestic Violence Act, 2005, against the Respondents. At the same time, Respondent No.1 has filed Petition No.A-1703 of 2013 and she has also filed Petition No.C-90 of 2013, both of which are pending in the Family Court at Bandra, Mumbai. Hence, the interest of justice requires that, as the parties to the proceedings are same, all the proceedings should be brought under one umbrella, to be decided by one Court.

4. The submission of learned counsel for the Respondents is that, this application is an attempt to prolong and protract the hearing of the Petition filed by the Respondents before the Family Court at Bandra, Mumbai, and it is in a way harassment of the Respondents. It is submitted that, in all, six to seven cases are already filed by the Applicant against the Respondents; one is of maintenance, another is under the Domestic Violence Act; the third is under Cyber Law; there is also a Writ Petition filed in this Court. The Applicant has taken various dates before the Trial Court and now when the matter is fixed before the Family Court at Bandra, Mumbai for hearing, at this stage, this application is filed with an object to protract the hearing of the proceedings before the Family Court and hence, it should be rejected.

5. This contention of the Respondents that this application is an attempt to protract the hearing of the proceedings before the Family

Court at Bandra, Mumbai, is hotly controverted by learned counsel for the Applicant by pointing out to the 'Roznama' of the Family Court, for showing how the matter is dragged by the Respondents themselves.

6. At this stage, I do not want to enter into the aspect as to who is protracting the hearing before the Family Court, as the relevant consideration before this Court is, whether all the proceedings between the parties should be decided and heard by one and same forum, instead of dragging the parties to different forums. The Magistrate's Court, where the proceedings filed under the Domestic Violence Act are pending, cannot have jurisdiction to decide Petition No.A-1703 of 2013 and Petition No.C-90 of 2013. However, the Family Court at Bandra, Mumbai, where these two Petitions are pending, is having the jurisdiction to decide the proceedings filed under the Domestic Violence Act, 2005. Hence, in order to avoid the conflicting decisions in all these proceedings and in order to make it convenient to all the parties and to save the judicious time of the Court, it is always desirable that one and same Court conduct the hearing and also decide the proceedings pending between the parties. With that sole object, this Miscellaneous Civil Application is allowed.

7. The proceedings filed by the Applicant under the Domestic Violence Act, 2005, which is pending on the file of the Metropolitan

Magistrate's 11th Court at Kurla, Mumbai, is transferred to the Family Court at Bandra, Mumbai; to be heard and decided along with Petition No.A-1703 of 2013 and Petition No.C-90 of 2013.

8. The Miscellaneous Civil Application is disposed off in the above terms.

9. As a result, the ad-interim relief granted by this Court in this Miscellaneous Civil Application, vide order dated 17th July 2018, stands vacated forthwith.

[DR. SHALINI PHANSALKAR-JOSHI, J.]