

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

MISC.CIVIL APPLICATION NO. 114 OF 2021

Sou. Ujwala w/o. Pravin Lokhande	...Applicant
vs.	
Pravin s/o. Vilas Lokhande	...Respondent

Mr.Amey Deshpande for Applicant.
Ms.Anita Murgude for Respondent.

CORAM : BHARATI DANGRE, J.

DATED : 6 OCTOBER 2021

P.C. :

. Heard learned Counsel for the Applicant and learned Counsel for the Respondent.

2. The Applicant is the wife, who seeks transfer of Marriage Petition No.283/2019 filed by the Respondent husband in the Court of Civil Judge, Senior Division, Panvel Taluka, District Raigad to the Family Court, Pune. The Applicant herself has instituted the proceedings under the Domestic Violence Act, 2005 by invoking Section 12 read with Sections 14, 18, 19, 20 and 23 before the JMFC Court at Pune.

3. The transfer of the proceedings is sought by the wife on the ground of being a woman and having two minor children, which would pose difficulty in attending the marriage petition, which is instituted in Panvel court. Counsel for the Applicant seeks transfer of the proceedings by invoking Section 24 of the CPC and the submission advanced is the

convenience of the Applicant by taking into account the circumstances, she is placed in, particularly, when she has to take care of an infant child.

4. Counsel for the Respondent husband fairly states that he has no objection if the proceedings are transferred from Panvel Court to Family Court at Pune, but, at the same time, learned Counsel would pray that the proceedings under the Domestic Violence Act filed by the wife before the JMFC Court, Pune shall also be transferred to the Family Court at Pune so that they can be tried collectively. The submission is that the DV proceedings are filed in the year 2020 whereas the marriage petition though filed in the 2019 is still at the evidence stage and has not progressed much and hence they can proceed together.

5. On the said proposal being made, Counsel for the Applicant concede to the convenience of the parties and accept that to avoid multiplicity or plurality of the litigation, he also make request to transfer the DV proceedings pending in JMFC Court, Pune to Family Court, Pune. He, therefore, seeks leave of this court to insert a prayer to that effect by adding a prayer clause a(1) in the application. The leave, as prayed, for is granted and the amendment shall be carried out forthwith by inserting the prayer seeking transfer of the DV proceedings from JMFC Court, Panvel to Family Court at Pune.

6. Pertinent to note that as far as Family Court is concerned, under the Family Courts Act, 1984, the Family Court exercise jurisdiction as set out in Section 7 of the Act of 1984 and by virtue of Sub-section (2), the Family shall have and exercise the jurisdiction exercisable by the Magistrate of the First Class under Chapter IX of the Cr.PC. and such other

jurisdiction as may be conferred on it by any other enactment. The Protection of Women from Domestic Violence Act, 2005, which is an enactment which provide for effective protection of right of women guaranteed by the constitution, who are the victims of any crime occurring in the family, which is a special enactment and the reliefs, which can be sought by an aggrieved party under the said enactment, can be sought before any Civil Court, Family Court or a Criminal Court by virtue of Section 26 of the Act. This provision read along with Section 27 which confers the jurisdiction on the court of JMFC to exercise the jurisdiction and to grant protection orders or other orders under the Act and to try the offences under the Act, it is apparent that the relief under Sections 18, 19, 20, 21 and 23 of the Act can be claimed in Family Court and thus, the Family Court can exercise the jurisdiction over the proceedings under the DV Act by virtue of Section 7 Sub-section (ii) of Clause (b) of the Family Courts Acts, 1984. I, therefore, see no difficulty in granting the relief sought by the Applicant by prayer clause (a) and (a1).

7. The writ petition is, therefore, allowed in terms of prayer clause (a) and (a1). Consequently, HMP No.283/2019 pending on the file of Civil Judge, Senior Division, Panvel shall forthwith stand transferred to the Family Court at Pune. The Civil Judge, Senior Division shall take immediate steps to transmit the record and proceedings to the Family Court at Pune. Similarly, DV proceedings instituted under Misc. Criminal Application No.2842/2020 shall stand transferred to the Family Court at Pune. The concerned JMFC Court shall forthwith transfer the said record and proceedings to the Family Court at Pune.

8. On both the proceedings being transferred to the Family Court

at Pune, the Family Court shall proceed to club the proceedings and try both of them together, which would avoid any contradictory orders being passed and possibly would entail common evidence which would also assist the prolonged proceedings being culminated into a final verdict.

9. The misc. civil application stands allowed in the aforesaid terms. No order as to costs.

(SMT. BHARATI DANGRE, J.)