

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO.96 OF 2021

Neville Jijibhoy Mistry .. Applicant

Vs.

Mangala Neville Mistry .. Respondent

...

Mr. Viresh Purwant with Mr. Nishant M. Sangle for the applicant.

Mr. Suresh Ghamre for the respondent.

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CORAM : SMT. BHARATI DANGRE, J.

DATED : 20TH OCTOBER, 2021.

P.C:-

1. By the present miscellaneous civil application, the applicant-husband is seeking transfer of the domestic violence case filed by the wife and pending on the file of Additional Metropolitan Magistrate, Girgaon, Mumbai, to the Family Court at Bandra, Mumbai, where he has instituted Marriage Petition No.A-835 of 2021. The request is made in order to avoid conflicting decisions between the two contesting parties and particularly, when Section 7 of the Family Courts Act, 1984

empowers the Family Court to entertain applications under the Protection of Women from Domestic Violence Act, 2005, which will include an application for grant of maintenance, protection orders, etc.

2. Learned counsel for the respondent fairly states that considering the ambit of powers of the Family Court, he is consenting for the transfer of the proceedings instituted under the Domestic Violence Act to the Family Court but with a request that the Application for Interim Maintenance filed by the wife, which is pending before the Metropolitan Magistrate for a considerable time, should be given priority since she is without any livelihood and the same shall be decided by the Family Court before the proceedings in the Marriage Petition are set into motion. The said request being reasonable, is not opposed by learned counsel for the petitioner.

3. In the wake of the consensus arrived at between parties, Domestic Violence Case No.27/DV/2020 pending on the file of Metropolitan Magistrate, Girgaon, Mumbai shall stand transferred to the Family Court at Bandra, Mumbai. The said proceedings shall be heard along with Marriage Petition No.A-835 of 2021. The parties are permitted to lead common evidence so as to curtail the length of the proceedings and also to avoid duplication of evidence since the allegations set out revolve around the relationship between the two and the common

evidence would result in uniformity of evidence. The Family Court is also requested to give priority to the application filed by the wife claiming interim maintenance. The Chief Metropolitan Magistrate shall forthwith transmit the papers and proceedings of Domestic Violence Case No.27/DC/2020 to the Family Court, Bandra, Mumbai.

4. The Misc. Civil Application is allowed.

[SMT. BHARATI DANGRE, J.]