

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISCELLANEOUS CIVIL APPLICATION NO. 161 OF 2021

Khatija Abrar Tinwala	.. Applicant
Versus	
Abrar Altaf Tinwala	.. Respondent

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Mr. Maniram R. Gaud i/b Satyaram R. Gaud for the applicant.

CORAM: BHARATI DANGRE, J.
DATED : 16th NOVEMBER, 2021

P.C:-

1 By the present application, the applicant wife is seeking transfer of proceedings filed by her before the Addl. Chief Metropolitan Magistrate at Mazgaon, Sewree to the Family Court, Bandra where the Marriage Petition filed by the respondent husband vide Darkhast No.56/2020 is pending. The prayer is sought on the ground that if the two petitions are clubbed together and decided by the Family Court, interest of parties would be better served.

2 Though the notice was issued to the respondent nos.1 to 7 and an affidavit of service was also filed, none appear for the respondent even today. Pertinent to note that as far as respondent no.1 is concerned, he is the husband of the applicant whereas respondent nos.2 to 7 are his relatives. The office note also record

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that the notice is served on respondent nos.1 to 4 and 7 but the notice on respondent nos.5 and 6 is awaited.

In absence of the representation of the respondent inspite of service being effected to respondent no.1 – contesting party being the husband, I have heard counsel for the applicant.

3 Applicant is seeking transfer of the proceedings filed by her invoking the provisions of the Domestic Violence Act vide C.C.No. 26/DV/2021 which is pending before the 2nd Court of Addl/Chief Metropolitan Magistrate at Mazgaon, Sewree, Mumbai and to be clubbed with M.J. Petition No. D-56 of 2020 pending before the Family Court at Bandra. Learned counsel has placed reliance on the decision of this Court in case of Santosh Machindra Mulik Vs. Mrs.Mohini Mithu Choudhari, as well as another decision in case of Sandeep Mrinmoy Chakraborty V/s. Reshita Sandip Chakrabarty & Anr., 2019(1) BCR 279, wherein the provisions of the Family Court and the Domestic Violence Act were discussed threadbare and it is held that the relief which can be granted by the Magistrate under the provisions of the D.V. Act can also be granted by the Family Court in exercise of its power. In such circumstances, I am inclined to allow the application.

5 Application is allowed in terms of prayer clause (b) which reads thus :-

“(b) That this Hon’ble Court be pleased to transfer the papers and proceedings of C.C.No. 26/DV/2021 filed and pending before 2nd Court of Ld. Addl.Chief Metropolitan Magistrate at Mazgaon (Sewri), Mumbai to the file of 02nd Court of Ld. Family Judge at Family Court, Bandra, Mumbai by tagging the above Domestic Violence matter along with M.J. Petition No. D-56 of 2020.

The Addl/Chief Metropolitan Magistrate shall take immediate steps to transmit the Record and Proceedings of C.C.No. 26/DV/2021 to the Court of Family Court at Bandra. The Family Court is requested to club the said proceedings along with M.J. Petition No. D-56/20 and attempt to deal with the same collectively so that the common evidence can be led in both the proceedings.

SMT. BHARATI DANGRE, J