

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

MISC. CIVIL APPLICATION NO. 381 OF 2019

Mrs. Pradnya Sujit Mahamulkar .. Applicant
V/s.

Mr. Sujit Govind Mahamulkar ..Respondent

Mr. Hitesh Vyas for the Applicant

Mr. Prasad Gajbhiye for the Respondent.

CORAM : C.V. BHADANG, J.

DATE : 15 SEPTEMBER, 2021

PC.

1. By this application, the Applicant-wife is seeking transfer of Case No. 62/DV/2017 from the Court of 28th Metropolitan Magistrate at Dadar, Mumbai to the Family Court at Bandra, Mumbai. The Respondent husband has filed Petition No. A-2963/2013 for dissolution of marriage under Section 13(i)(ia) of the Hindu Marriage Act 1955 against the Applicant, which is pending before the Family Court at Bandra, Mumbai. Indisputably, in none of the matters, the trial has commenced.

SNEHA
NITIN
CHAVAN

Digitally signed
by SNEHA
NITIN CHAVAN
Date: 2021.09.21
17:10:34 +0530

2. The learned counsel for the Applicant states that for the purpose of convenience of trial and in order to avoid any conflicting finding/decision, it is necessary that the proceedings under the Protection of Women from Domestic Violence Act, 2005 are transferred to the Family Court.

3. The learned counsel for the Respondent has opposed the prayer on the ground that the Applicant is residing at Nana Chowk and thus, it would be the Court of Metropolitan Magistrate, Girgaon who would have jurisdiction to entertain the complaint under the 2005 Act. It is submitted that notwithstanding this, the Applicant has filed those proceedings in Dadar Court. It is pointed out that once the Respondent raised an objection to the territorial jurisdiction of the Metropolitan Magistrate at Dadar that the present application is filed for transfer.

4. In my considered view, it is not necessary to go into the contention raised inasmuch as admittedly, the petition for dissolution of marriage filed by the Respondent husband on the ground of cruelty is pending before the Family Court. Looking to the nature of the dispute involved in the complaint under the Act of 2005 and the issue which falls for determination on the basis of the

allegations of cruelty made by the Respondent before the Family Court, would be similar and thus for the convenience of the trial, the proceedings before the Metropolitan Magistrate can be transferred to the Family Court.

5. In that view of the matter, the application is allowed in terms of prayer clause (a).

C.V. BHADANG, J.