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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO. 368 OF 2019**

Yogesh Prabhakar Jeware

....Applicant

V/s

Vaishali Yogesh Jeware

.....Respondent

Mr. Tejas P. Hartalkar for the Applicant.

Mr. Ajinkya Udane for the Respondent.

CORAM: NITIN W. SAMBRE, J.

DATE: JANUARY 11, 2022

P.C.:-

1] This Application is by the husband seeking transfer of the proceedings initiated under Section 12 of the D.V. Act being Misc. Application No.1183 of 2019 by Non-applicant/wife from the file of Judicial Magistrate, First Class, Shivajinagar, Pune to the Family Court, Pune. Such transfer is sought on the ground that divorce proceedings initiated by the Applicant/husband under Section 13(1)(i-a) of the Hindu Marriage Act, 1955 being Marriage Petition No.1335 of 2019 is already pending with Family Court, Pune.

2] Prayer for transfer is opposed by Mr. Udane, learned Counsel

appearing for Non-applicant/wife as, according to him, proceedings are initiated at Magistrate's Court, Pune having regard to the jurisdiction prescribed under statute. According to him, if transferred from the Court of Magistrate to the Family Court, Non-applicant is likely to lose her chance of appeal in case if same is required to be preferred.

3] Considered submissions.

4] Fact remains that parties got married on 11/2/2008 and on 5/7/2011 they are blessed with son Soham who is in the custody of Non-applicant/wife. Non-applicant/wife is equally qualified as is informed, as she possesses academic qualification of B.E. (Electronics). Wife is required to attend the proceedings at Magistrate's Court initiated under the provisions of D.V. Act so also divorce proceedings before the Family Court, Pune. Similarly, Applicant-husband has to attend divorce proceedings pending on the file of Family Court and also D.V. Act proceedings before the Magistrate's Court at Pune.

5] As such, in the interest of both the parties, particularly having

regard to their convenience and also for expeditious disposal of both the proceedings, prayer of the Applicant-husband needs to be granted.

6] Apart from above, there is every likelihood that there will be multiplicity of litigation as parties are agitating on similar set of facts before the two courts.

7] As such, Application is allowed in terms of prayer clause (a) which reads as under:-

“(a) That this Hon’ble Court be pleased to transfer the Criminal M.A. No.1183 of 2019 filed by the Respondent/ wife under the provisions of the Domestic Violence Act, 2005, pending in the Court of J.M.F.C., Shivajinagar Court, Pune, to the Family Court, Pune, to try, entertain and decide the same along with the petition for Divorce.”

(NITIN W. SAMBRE, J.)