

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

MISCELLANEOUS CIVIL APPLICATION NO. 119 OF 2023

Ganesh Shankar Tawade	.. Applicant
v/s.	
Shwetali Ganesh Tawade	.. Respondent

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Mr. Sudhir Sadavarte for the applicant.

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CORAM : KAMAL KHATA, J.

DATED : 18TH JULY 2023.

P.C. :

1. This Miscellaneous Civil Application is filed by the Applicant wife under section 24 of the Civil Procedure Code 1908, for transfer of Petition no.103/2022 filed by the Respondent wife from Metropolitan Magistrate, Mulund to Family Court, Bandra.
2. The Applicant's case is that the marriage took place on 3rd March 2016 at Mumbai. On 30th September 2017 a boy was born out of wedlock. On 25th August, 2017 respondent-wife left the matrimonial home. On 5th April, 2021 applicant - husband filed a petition before the Family Court, Bandra under Section 13(i)(ia) and Section 26 of the Hindu Marriage Act, 1955 for dissolution of marriage. On 5th

January 2023 respondent-wife filed Domestic Violence Proceedings under Sections 12, 18, 19, 20, 22 and 23 of Protection of Women from Domestic Violence Act, 2005 before the Metropolitan Magistrate at Mulund.

3. Learned counsel for the applicant submits that the Domestic Violence proceedings is only with sole intention to harass the applicant inasmuch as it was filed one year after serving the petition for divorce in Family Court at Bandra. It is submitted that the wife has been appearing at Family court at Bandra in fact it would save time as well as money for both the parties. It is also further submitted that proceedings and the issues therein are common so also the evidence be common in both the matters. He accordingly submits that the application be made absolute.

4. None appears for the respondent though served.

5. In view of the aforesaid submissions I am of the view that no prejudice would be caused to the respondent-wife if the proceedings from Metropolitan Magistrate, Mulund be transferred to Family Court at Bandra. It would be in the interest of both parties if the matters are taken up and decided by the Family Court as the evidence would be the

same and would also be cost effective.

6. In view of the above, I am inclined to allow this application and pass the following order

(i) Application is allowed in terms of prayer clauses (b) and (c).

(ii) The proceedings and application made in Petition No.103 of 2022 pending before Metropolitan Magistrate Court, Mulund be stayed pending transfer; and be transferred to Family Court at Bandra.

(iii) The transfer may be effected within a period of four weeks and upon receipt of the papers and proceedings the Family Court at Bandra, shall give notice to the parties, preferably within three weeks, to proceed with their respective matters.

(iv) All concerned to act on the authenticated copy of this order.

(KAMAL KHATA, J.)