

AGK

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

WRIT PETITION NO.2165 OF 2022

Rakesh Shyamsundar Rohela & Anr. ... Petitioners

V/s.

Kamala Shyamsundar Rohela & Anr. ... Respondents

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Mr. Vishal K. Jagwani for the petitioners.

Mr. Ditendra K. Mikshra for respondent no.1.

Ms. M.R. Tidke, APP for respondent no.2/State.

CORAM : AMIT BORKAR, J.

DATED : APRIL 24, 2023

PC.:

1. The challenge in this writ petition is to the notice in a complaint under Protection of Women from Domestic Violence Act, 2005. The mother has filed a complaint against son seeking under Sections 12, 18 and 23 of the Domestic Violence Act, 2005. The relationship between the parties is not in dispute. Entitlement to seek relief is the matter to be considered by the Trial Court.

2. Merely because in the complaint rights over immovable properties are sought to be enforced, that by itself would not oust jurisdiction of the Court constituted under the Domestic Violence Act, 2005 to grant relief. Ultimately, if the mother proves jurisdictional facts to entitle her to relief claimed, the Court will consider grant of relief.

3. At this stage from the averments in the complaint, the petitioner is not justified in stating that the Court had no jurisdiction to entertain the complaint.
4. In the limited scope under Article 227 of the Constitution of India read with Section 482 of the Criminal Procedure Code, 1973, no interference is called for.
5. The writ petition is dismissed. No costs.

(AMIT BORKAR, J.)