

VRJ

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

**MISCELLANEOUS CIVIL APPLICATION NO.54 OF 2023**

|                         |                |
|-------------------------|----------------|
| Rahul Bal Metkar & Ors. | ... Applicants |
| V/s.                    |                |
| Pallavi Lande           | ... Respondent |

Mr. Dushyant Purekar with Mr. Rajat Dedhia for the applicant.

Mr. Pralhad Paranjape with Darshan Sahuji i/by Satyaki Law Associates for the respondent.

**CORAM : AMIT BORKAR, J.**

**DATED : FEBRUARY 24, 2023**

**P.C.:**

1. The husband has filed present application seeking transfer of complaint pending before the learned Metropolitan Magistrate, Mulund to the learned Family Court at Bandra, Mumbai.
2. The marriage between the applicant and opponent took place on 20<sup>th</sup> December 2010. Due to matrimonial differences between the parties, the applicant No.1 filed Marriage Petition No.A-233 of 2020 before the learned Family Court at Bandra. The opponent wife on 2 September 2021 filed Domestic Violence Case No.80 of 2021 before the learned 53<sup>rd</sup> Court of Metropolitan Magistrate, Mulund.
3. To avoid conflict in findings, the husband has filed present

application seeking transfer of proceedings pending before the learned Metropolitan Magistrate, Mulund to the learned Family Court, Bandra.

4. The request is opposed on the ground that the interim relief application seeking interim maintenance is pending before the learned Metropolitan Magistrate, Mulund. Said apprehension taken care of by the clarifying effect of order of transfer.

5. Considering the averments made in the proceedings under the Protection of Women from Domestic Violence Act, 2005 and divorce petition under the Hindu Marriage Act, 1955 there is possibility of conflict in findings. To obviate such conflict in findings, it is necessary in the interest of justice to transfer proceedings under the Domestic Violence Act, 2005 to the Family Court, Bandra.

6. This Court in the case of **Vijay Suryakant Kakde vs. Anushka Vijay Kakade & Ors.** in Miscellaneous Civil Application No.498 of 2022, decided on 2<sup>nd</sup> February 2023 has already held in paragraph 10 as under:

“I have given anxious consideration to the submissions made on behalf of both sides. On consideration of the judgments of this Court, it appears that this Court has consistently held that the proceedings under the provisions of the DV Act can be transferred to the Family Court as the relief sought before the learned Magistrate under DV Act can be effectively tried and granted by the Family Court. It is also consistently held by this Court that such transfer is necessary to avoid conflicting decisions, and the Family Courts are empowered to deal with the reliefs under sections 18 to 22 of the DV Act.”

7. In that view of the matter, the miscellaneous civil application is allowed in terms of prayer clause (a). However, it is made clear that proceedings of Complaint C.C. No.DV/80/2021 pending before learned 53<sup>rd</sup> Court Metropolitan Magistrate, Mulund shall be transferred after the decision rendered on the application for interim maintenance.

**(AMIT BORKAR, J.)**