

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISCELLANEOUS CIVIL APPLICATION NO.65 OF 2023**

Varun Narendra Agarwal and ors.	...	Applicants
versus		
Priyanka Varun Agarwal		Respondent

Ms. Sushmita Sherigar, Advocate for the Applicants.

Mr. Asif Naqvi, Advocate for the Respondent.

CORAM : SHIVKUMAR DIGE, J.

DATE : 20th FEBRUARY, 2024.

P.C. :

1. Heard learned counsel for the applicants and learned counsel for the respondent.
2. Learned counsel for the applicants submitted that applicant No.1-husband has filed custody petition against respondent-wife, which is pending before the Family Court at Bandra. The respondent-wife has filed proceeding under the provisions of Domestic Violence Act, which is pending before the Metropolitan Magistrate Court at Mazgaon. Learned counsel submitted that in the custody proceeding, respondent-wife has filed written statement and, in that written statement, she has taken defense that the domestic violence proceeding is pending, if both the proceedings are tried together, it would be convenient for the Family Court to decide the issue properly. Hence, requested to allow the application.

3. Learned counsel for respondent-wife submitted that the wife would not take the defense before the Family Court at Bandra in custody proceeding filed by the applicant-husband regarding pendency of proceeding under the Domestic Violence Act before the Metropolitan Magistrate Court at Mazgaon.

4. I have heard both learned counsel. The applicant-husband and respondent-wife both are residents of Mumbai. It is the apprehension of applicant-husband that respondent-wife has taken defense in the proceeding before the Family Court that proceeding under the provisions of Domestic Violence Act is pending and it may affect the hearing of custody proceeding pending before Family Court at Bandra. Learned counsel for respondent-wife submitted that the said defense would not be taken and the said matter would be argued on merit.

4. In view of above, I pass the following order :

(i) Application is rejected.

(SHIVKUMAR DIGE, J.)