

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISCELLANEOUS CIVIL APPLICATION NO. 83 OF 2024**

Ashutosh Sadanand Karmarkar ... Applicant
versus
Anushree Rajendra Kulkarni Respondent

Mr. Prafulla Paranjape, Advocate for the Applicant.

CORAM : ARUN R. PEDNEKER, J.

DATE : 30th JULY, 2024.

P.C. :

1. Heard the learned counsel appearing for the applicant.
2. By this application, the applicant-husband is seeking transfer of Domestic Violence proceedings filed by the respondent-wife before the Judicial Magistrate First Class, Pune to the Family Court at Pune, where the respondent-wife, has also filed divorce proceedings on the same day.
3. Learned counsel appearing for the applicant-husband submits that the date of separation of the parties is 1st February 2022 and the divorce proceedings and domestic violence proceedings are filed on the same day i.e. 27th February 2023 or thereafter. The learned counsel submits that both the proceedings are filed on the same day, one before the Family Court at Pune and another before the JMFC, Pune. He submits that for the convenience of the parties and to avoid any conflict of order by the Courts, it would be convenient if both the proceedings are heard by

the Family Court at Pune as the Family Court at Pune is competent and has jurisdiction to pass orders under the Domestic Violence Act.

4. The application for interim maintenance is filed on 1st December 2023 and JMFC, Pune, by an ex-parte ad-interim order dated 20th December 2023 granted Rs.25,000/- per month as ad-interim maintenance to the respondent-wife. The said order of the JMFC, Pune is challenged by the applicant-husband before the Sessions Court and the Sessions Court has granted stay to the order of maintenance and the same is for pending consideration before the Sessions Court till date. In fact till date, there is no maintenance order of any of the Courts in favour of the respondent-wife.

5. The learned counsel appearing for the applicant-husband submits that the respondent-wife is in service and she is not entitled for maintenance and the JMFC Court on merits would decide the same. He also submits that the respondent-wife is not contesting the proceedings before the Sessions Court, although notice is issued to her she has not appeared before the Sessions Court for contesting the interim maintenance application.

6. In the instance case also, notice has been served upon the respondent-wife and though notice is duly served and received by her father, she has not entered appearance.

7. It is apparent that the respondent-wife is seeking maintenance. At this moment, there is no interim order of maintenance in favour of

respondent-wife and this Court would not entertain an application at the instance of the husband on the spacious plea that it would be convenient for both the parties if the the matter is transferred from JMFC, Pune to the Family Court at Pune as in both the matters the evidence is common. The present applicant has been contesting the DV proceedings far seriously. The ad-interim order of maintenance is challenged by the appellant-husband before the Sessions Court, and the ad-interim order of maintenance is stayed by the Sessions Court. The respondent-wife has not appeared before the Sessions Court and has not been able to defend the proceedings before the Sessions Court, as such, she has no maintenance order in her favour for last one year. The wife has also not defended the present proceedings. In absence of conclusion of interim maintenance order, this Court would not entertain the application for transfer of the DV proceedings to the Family Court. The DV proceedings before the JMFC are summary and time bound proceedings and they have to be concluded within certain time frame, transfer of the same would cause prejudice to the respondent-wife. Thus, I do not find any reason to transfer the proceedings pending before the JMFC, Pune to the Family Court at Pune. The miscellaneous application is dismissed.

(ARUN R. PEDNEKER, J.)