

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.562 OF 2025

Aniruddha Pradeep Samant	...Petitioner
<i>Versus</i>	
Bhagyashree Aniruddha Samant	...Respondent

Ms. Jai Vaidya, for the Petitioner.
Mr. Anil Patel, for the Respondent.

CORAM: MADHAV J. JAMDAR, J.
DATED : 14th AUGUST 2025

P. C.:

1. Heard Ms. Jai Vaidya, learned Counsel appearing for the Petitioner and Mr. Anil Patel, learned Counsel appearing for the Respondent.

2. The challenge in this Writ Petition is to the order dated 5th September 2024 passed by the learned Judicial Magistrate First Class, 17th Court, Borivali, Mumbai in C.C. No.139/DV/2023. In fact, Appeal is competent before Sessions Court, Mumbai under the provisions of the Protection of Women from Domestic Violence Act, 2005 against the impugned order. However, Ms. Vaidya, learned Counsel appearing for the Petitioner states that by order dated 30th

August 2024 passed by a learned Single Judge in Miscellaneous Civil Application No.339 of 2023, the said Domestic Violence proceedings bearing C.C. No.139/DV/2023 has been directed to be transferred to the learned Family Court, Mumbai. Although, the proceedings were transferred by a learned Single Judge by order dated 30th August 2024, however, *inter alia* by the said order learned Single Judge directed that the said application bearing Exhibit-3 filed in C.C. No.139/DV/2023 be decided by the learned Judicial Magistrate First Class, 17th Court at Borivali, Mumbai before transfer of the matter.

3. It is therefore, submission of Ms. Vaidya, learned Counsel appearing for the Petitioner that the Writ Petition be entertained. Thus, inspite of availability of the alternate remedy, the Writ Petition is entertained in view of peculiar factual position.

4. Perusal of the impugned order dated 5th September 2024 shows that various aspects have not been taken into consideration. Ms. Jai Vaidya, learned Counsel submits that therefore, by setting aside the impugned order, the matter be remanded back to the learned Judge, Family Court, Mumbai. In view of the said

submission, Mr. Patel, learned Counsel appearing for the Respondent, on instructions, states that by setting aside the impugned order dated 5th September 2024, the said application bearing Exhibit-3 filed in C.C. No.139/DV/2023 be remanded back to the learned Family Court, Mumbai.

5. Ms. Vaidya, learned Counsel appearing for the Petitioner states that after transfer of the Domestic Violence proceedings to the learned Family Court, Mumbai it has been renumbered as Criminal Miscellaneous Application No.42 of 2024.

6. Accordingly, by consent the impugned order dated 5th September 2024 passed below Exhibit-3 in C.C. No.139/DV/2023 is quashed and set aside and Exhibit-3 application filed in Criminal Miscellaneous Application No.42 of 2024 is remanded back to the learned Family Court, Bandra, Mumbai.

7. It is clarified that all the contentions on merits are expressly kept open.

8. The Writ Petition is disposed of in above terms with no order as to costs.

[MADHAV J. JAMDAR, J.]

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