

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISCELLANEOUS CIVIL APPLICATION NO. 206 OF 2024

Shailesh Sadanand Dhoke	...	Applicant
V/s.		
Shravaya Shailesh Dhoke	...	Respondent

Mr. Vinod Sangvikar I.by Mr. Vinay Gaikwad, for the Applicant.
Mr. Sachin S. Pune a/w Mr. Suraj B. Jadhav, for respondent.

CORAM : N.J. JAMADAR, J.
DATE : 25TH APRIL 2025.

PC:

1. This is an application for transfer of the proceeding under the Protection of Women from the Domestic Violence Act, 2005 (D.V. Act) being D.V. Case No. 110 of 2022 from the Court of the Magistrate at Mulund, Mumbai to the Family Court, Bandra, Mumbai.
2. The marriage of the applicant was solemnised with the respondent on 20th November 2014. Matrimonial disputes arose. The applicant was constrained to file a petition for dissolution of marriage being Petition No. A-3180 of 2022 under Section 13(1)(ia) of the Hindu Marriage Act, 1955 before the Family Court at Mumbai. The applicant asserts that to give a counterblast, the respondent has filed a proceeding under the D.V. Act before the Magistrate in the month of December 2022. It would, therefore, be expedient in the interest of

justice that the said D.V proceeding is transferred to the Family Court at Bandra, Mumbai for hearing and disposal along with Marriage Petition No. 3180 of 2022.

3. An affidavit-in-reply has been filed on behalf of the respondent to contest the prayer to transfer the D.V. proceeding. It is contended that the transfer of the D.V. proceeding to the Family Court would further delay the hearing and disposal of the said proceeding, which has been already protracted by acts of the applicant. The relatives of the respondent are residing at Dombivli and she would suffer inconvenience if the proceedings are transferred to the Family Court.

4. I have heard Mr. Sangvikar, learned counsel for the applicant and Mr. Punde, the learned counsel for the respondent, at some length.

5. There is no dispute about the jurisdictional competence of the Family Court to try a proceeding under the D.V. Act, 2005. However, it is the expediency of the transfer of such proceeding to the Family Court that warrants consideration. The element of convenience is also relegated to secondary position as the parties are residing within Mumbai Metropolitan Region.

6. On the aspect of the expediency, it is necessary to note, the proceedings under D.V. Act, 2005 are required to be decided in a time frame. The object of the said proceeding is materially distinct from a marriage petition. Though some element of overlapping cannot be avoided, yet, it cannot be said that identical issues would arise for determination in both proceedings. In a sense, a Magistrate is better equipped to deal with the proceeding under the D.V. Act, 2005. Where

the pendency of cases in a Family Court is large, the transfer of the proceeding under D.V. Act to the Family Court is likely to prejudicially affect the rights of an aggrieved woman as the disposal of the proceeding under the DV Act would also get inevitably delayed.

7. In the aforesaid view of the matter, I am not inclined to accept the prayer to transfer the DV Act proceeding, at the instance of the husband, to the Family Court at Bandra, Mumbai.

8. Hence the following order :

ORDER

The application stands rejected.

(N.J. JAMADAR, J)