

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

MISCELLANEOUS CIVIL APPLICATION NO.367 OF 2024

Rohit Mohan Pugalia	]	
Indian Inhabitant, age 37 years,	]	
having his place of residence at	]	
401, Villa Velloze, Central Avenue,	]	
Santacruz (West), Mumbai 400 054.	]	...Applicant.

Versus

Purvi Rohit Pugalia	]	
W/o Rohit Mohan Pugalia	]	
Indian Inhabitant, age 37 years,	]	
having her place of residence at	]	
402, Villa Velloze, Central Avenue	]	
Santacruz (West), Mumbai 400 054.	]	...Respondent.

Mr. J.K. Shah a/w Ms. Namrata Thakur, Ms. Pooja Shah i/by R/J Law
for the Applicant.

Mr. Vikramjeet M. Siram a/w Ms. Shaily S. Jain for the Respondent

CORAM : KAMAL KHATA, J.
RESERVED ON : 11th August, 2025.
PRONOUNCED ON : 19th August, 2025.

JUDGMENT:

1) By this Application, the Applicant seeks transfer of DV case No.62/DV/2024 from Metropolitan Magistrate 71st Court at Bandra, to the Family Court at Bandra, to be heard and decided along with Divorce Petition No.A-1250 of 2024 and Restitution Petition No.A-1815 of 2024.

2) Mr. Shah, learned counsel for the Applicant submits that, the Respondent has instituted a Divorce Petition No.A-1250 of 2024 before the Family Court at Bandra. In contrast, the Applicant has filed a Petition bearing No.A-1815 of 2024 before the Family Court at Mumbai seeking restitution of conjugal rights, custody of minor daughter Rhyah, and other consequential reliefs.

3) The Respondent has also filed a case No.62/DV/2024 before the Metropolitan Magistrate 71st Court, Bandra, under the provisions of Protection of Women from Domestic Violence Act, 2005 (DV Act) against the Applicant. Learned counsel submits that the reliefs sought in the DV proceedings substantially overlap with those claimed in the divorce proceedings. A comparative chart is set out for ready reference:

Prayers in DV Proceedings 62/DV/2024 pending before Ld. Metropolitan Magistrate 71st Court at Bandra , filed by the Respondent/Wife.	Prayers in Divorce Petition No. A/1250/2024 filed before the Family Court, Bandra by the Respondent/Wife.
a) That this Hon'ble Court be pleased to grant a Protection Order u/s 18 of the DV Act and restrain the Respondent from committing and/or aiding and/or abetting and/or attempting to commit any form of domestic violence against the Applicant and/or her family members including the Applicant's mother and the minor girl child and contacting them in any manner	a) That a decree be passed dissolving the marriage solemnized on 8 th December 2012, U/s 13(1)(a) of the Hindu Marriage Act, 1955.

whatsoever.	
b) That this Hon'ble Court be pleased to restrain the Respondent and/or anybody at is instance from entering the residence where the Applicant is presently residing with the minor child viz. 402 Villa Velloze, Central Avenue, Opposite Laxmi General Store, Santacruz West, Mumbai 400054 and further from any other place frequented by the Applicant and/or the child.	b) To pass an order granting the permanent legal custody of the child Rhyah to the Petitioner.
c) That this Hon'ble Court be pleased to pass Custody Orders u/s 21 of the DV Act qua the minor child in favour of the Applicant and restrain the Respondent from meeting and/or communicating with the minor girl in any manner.	c) To pass an order restraining the Respondent from removing the child from the jurisdiction of this Hon'ble Court.
d) That this Court be pleased to pass a Compensation Order u/s 22 of the DV Act and direct the Respondent to pay an amount of Rs.20,00,00,000/- towards compensation to the Applicant for the loss, damage, injuries caused to her by their acts of domestic violence.	d) For an order restraining the Respondent or his agents or servants or any other persons claiming under him from entering the flat No.402 Villa Velloze, Central Avenue, Santacruz West, Mumbai 400054 where the Petitioner is residing with the child.
e) That the Respondents be directed to pay the Applicant an amount of towards legal expenses incurred by the Applicant.	e) For ad-interim and interim reliefs towards prayer clause (a), (b), (c) & (d);
f) that during the pendency, hearing and disposal of the present application, this Court pass interim orders in terms of prayer clauses (a), (b) and (c).	f) For such further and other orders as this Hon'ble Court may deem fit and necessary depending upon the facts and circumstances of the case.
g) Ad-interim and interim orders in terms of prayer clauses (a), (b) and (c).	

h) Any other order that this Court deems fit in the interest of justice.	
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[Emphasis supplied]

4) Learned counsel further submitted that the reliefs sought by the Respondent in DV case pending before the Metropolitan Magistrate Court can equally be pursued before the Family Court where the divorce petition is pending. Since, the proceedings involve common issues between the same parties, there is a real likelihood of conflicting findings, creating difficulties in implementation of Orders. It would therefore be in the interest of both parties to lead evidence before a single forum. Consolidating the two proceedings would also avoid duplication, conserve judicial time, and reduce unnecessary expense.

5) He further submitted that such transfer would not cause any inconvenience to either party. On the contrary, continuing the proceedings before two different forums would compel the parties to engage different Advocates it may entail engaging different Advocates and lead to avoidable waste of time, effort and resources.

6) Mr. Siram, learned counsel appearing for the Respondent, relies upon the judgment in the case of *Anurag Agarwal vs Poonam Agarwal*¹ to contend that the transfer of proceedings is not warranted.

¹ 2024:BHC-AS:26874

7) I have heard the learned Advocates for both parties and perused the record.

8) Despite being granted sufficient opportunity, the Respondent has not filed any reply. The Mediation Report dated 4th April 2025 records that the settlement efforts have failed. The DV case has reached the stage of filing evidence; however, the next date of hearing is after a gap of three months, i.e. on 13th November 2025.

9) This case is evidently one where the marital discord has escalated. The Applicant alleges physically assault by assailants engaged by the Respondent's family. On the one hand, the Respondent-wife seeks a divorce; on the other, the Applicant husband seeks restitution. The reliefs sought in the DV proceedings in the Metropolitan Magistrate's Court are such as can also be granted by the Family Court. Given that both Courts are located in close proximity, and considering the social background of the parties, no inconvenience will be caused to the wife. It would be therefore in the interest of justice that evidence is recorded before a single forum. The Family Court matter cannot be transferred to the Magistrate's Court; hence, the appropriate course is to transfer the DV proceedings to the Family Court.

10) The decision in *Anurag Agarwal v Poonam Agarwal* (supra) is distinguishable. In that case, the proceedings before the

Magistrate's Court were already at an advanced stage, unlike the present matter.

11) In *N.C.V Aishwarya v Saravana Karthik Sha*² the Supreme Court, while examining the scope of Section 24 of the Code of Civil Procedure held:

"9.The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socio-economic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.

10. Further, when two or more proceedings are pending in different Courts between the same parties which raise common question of fact and law, and when the decisions in the cases are interdependent, it is desirable that they should be tried together by the same Judge so as to avoid multiplicity in trial of the same issues and conflict of decisions."

[Emphasis supplied]

12) In line with the principles laid down in *Sandip Mrinmoy Chakraboarty v Reshita Sandip Chakrabarty*³, (DB) (supra) *Rohan Shah v Nishigandha Shah*⁴ and *N.C.V Aishwarya v Saravana Karthik Sha* (supra), and upon consideration of the pleadings and material on record, and considering the totality of the facts and circumstances of

² 2022 SCC OnLine SC 1199

³ 2021 SCC OnLine Bom 272

⁴ 2023 SCC OnLine Bom 2719

this case, I am satisfied that no prejudice will be caused to the Respondent if the DV proceedings are transferred from the Metropolitan Magistrate, 71st Court, Bandra, to the Family Court, Bandra.

13) The Miscellaneous Civil Application is allowed in terms of prayer clause (a).

14) Upon receipt of the papers and proceedings, the Family Court, Bandra shall issue notice to the parties, preferably within three weeks, and proceed with the matter expeditiously.

15) Miscellaneous Civil Application is disposed of in aforesaid terms.

16) All concerned to act on an authenticated copy of this Judgment.

(KAMAL KHATA, J.)