

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO.457 OF 2024

Kaveri Vishnu Adhikari and Another ...Applicants

vs.

Vishnu Kesarbahadur Adhikari & Ors. ...Respondents

VISHAL
SUBHASH
PAREKAR

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VISHAL SUBHASH
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Date: 2025.03.03
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Mr. Vijay S.V. a/w. Ms. Bhagyashree Keny i/b. Mr. Mahesh Jaiswal,
for the Applicants.

Mr. Dharmendra Joshi, for the Respondents.

CORAM : N. J. JAMADAR, J.

DATE : FEBRUARY 28, 2025

P.C:

1. Heard the learned counsel for the parties.
2. This is an application for transfer of the proceeding under the Protection of Women From Domestic Violence Act, 2005 (the Act, 2005) bearing D.V.No.231/DV/2019 pending on the file of Metropolitan Magistrate, 52nd Court, Kurla to the Family Court at Bandra.
3. The applicant has filed the proceedings under the Act, 2005 bearing No.231/DV /2019 in the year 2019. The said proceeding is subjudice before the learned Magistrate 52nd Court, Kurla. The respondent has filed a petition for dissolution of marriage under the Hindu Marriage Act, 1955 bearing No.A-832 of 2022. The said proceeding is pending before the Family Court at Bandra. The applicant has preferred this application for transfer of D.V. No.231/DV/2019 from the Court of Metropolitan Magistrate, 52nd

Court, Kurla to the Family Court at Bandra.

4. It appears that the learned Magistrate by an order dated 18th July, 2024 directed that the interim applications as well as the main application be heard and decided as expeditiously as possible.

5. Having regard to the pendency of the proceedings before the Courts at Kurla and Bandra, Mumbai no question of convenience or inconvenience arises.

6. So far as the identity of the issues which may arise for determination, some incidental or collateral issues may have an element of commonality. However, the object of the proceeding under the D.V. Act, 2005 is materially distinct. Such a proceeding is required to be decided in a time frame. The Magistrate is relatively better equipped to effectively decide the proceeding under D.V. Act, 2005. Transfer of the proceeding to the Family Court may further delay the disposal of the said proceeding. In fact, the continuation of the proceeding before the Magistrate, who is enjoined to decide the proceeding in a time bound manner, under the D.V. Act, 2005, would enure for the benefit of the applicant.

7. In these circumstances, I am not inclined to entertain the application for transfer.

8. The application stands rejected.

(N. J. JAMADAR, J.)