

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISCELLANEOUS CIVIL APPLICATION NO. 492 OF 2024**

Aditya Mahendra Patkar

..Applicant

Versus

Hemlata Aditya Patkar

...Respondent

Mr. Sukeshi Bhandari, with Akshay Chauhan, for the Applicant.
Ms. Rekha Musale, for the Respondent.

CORAM: N. J. JAMADAR, J.

DATED : 28th FEBRUARY 2025

P.C.:

1. Heard learned Counsel for the parties.

2. This Application filed by the husband for transfer of the proceeding under the Protection of Women from Domestic Violence Act 2005 (“DV Act”), i.e., Case No. 420/DV/2023 pending before the Addl. CMM Court, Borivali to the Family Court at Bandra, Mumbai, where a Petition for dissolution of marriage, i.e., Petition No. A-2493 of 2023 under Section 13(1)(i-a) of the Hindu Marriage Act 1955, is sub judice.

3. It was submitted that the identical questions would arise for determination in the proceedings under DV Act and the Petition for dissolution of marriage. It is, therefore, necessary to transfer the DV

ARUN
RAMCHANDRA
SANKPAL

Digitally signed by
ARUN
RAMCHANDRA
SANKPAL
Date: 2025.03.03
10:56:11 +0530

proceedings to the Family Court at Bandra to avoid conflicting decisions.

4. It is true a Family Court has the jurisdictional competence to try a proceeding under the DV Act, 2005. The object of the proceeding under the DV Act 2005 is materially distinct from a Petition for dissolution of marriage. Commonality on incidental or collateral issues may arise. However, the Magistrate is enjoined to dispose of the proceeding under the DV Act 2005 in a time-bound manner. Transfer of the proceeding to the Family Court may derail the disposal of the proceeding under the DV Act 2005. Since both the parties are resident of Mumbai, no issue of inconvenience arises.

5. In these circumstances, this Court does not find any justifiable reason to transfer the DV proceeding pending before the learned Magistrate to the Family Court at Bandra, Mumbai.

6. Application rejected.

[N. J. JAMADAR, J.]