

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FAMILY COURT APPEAL NO. 131 OF 2025

Subhash Chandulal Talera

...Appellant

Versus

Sona Subhash Talera

...Respondent

Mr. Abhijeet Sarwale i/b Vaibhav Thorave for the Appellant.

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**CORAM : BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.**

DATE : 6th FEBRUARY, 2026

P.C. :

1. The Petition raises a challenge to the order passed by the Family Court on 02.08.2025, upholding the objection raised by the Registry of the Family Court, as regards the maintainability of the proposed petition filed by the husband seeking certain declaration in regard to certain shares and immovable property.

The Family Court's record indicates that the issue in the proposed petition is movable and immovable property and it is also not disputed that the marital ties between parties are subsistent. However, in the Court's record that the question of equitable relief in the form of a declaration will come if there is no other alternative remedy available.

2. On perusal of the impugned order, we fail to find any logic and justifiability in the impugned order, as the Family Courts Act, 1984, in Chapter III under Section 7 has set out the jurisdiction of the Family Court and explanation appended thereto has enlisted the suits and proceedings referred to in the sub-section, are the suits and proceedings

of the nature prescribed and this includes (c) a suit or proceeding between the parties to a marriage with respect to the property of the parties or of either of them.

3. On perusal of the pleadings, in the Petition filed before the Family Court, it is the case of the husband that he brought shares for the wife in her name and he had added her name in various businesses by conferring shares with an understanding that she would hold as nominee and she will not have any right, title or interest therein. Even, it is alleged that few properties are also purchased in her name and thereafter, they were estranged and the husband claims his stake in the said shares as the petition filed by him seek a declaration that the shares held by the wife in the company are benami and the Petitioner be declared as absolute owner of the shares and he being the owner of the share, the shares can be transferred in his name from that of the wife. Similarly, a direction is also sought that the power of attorney executed by the wife in favour of the son be cancelled.

4. A restraint order is sought in form of an injunction directing the Respondent/wife not to sell, create or dispose of any right in the property by use of alleged power of attorney and create any encumbrance/obstruction to the right which the petitioner claims, as according to him, her name was put only for name sake and the actual investment is by him.

5. Perusal of the petition filed before the Family Court and the reliefs sought therein according to us, the subject matter would clearly fall within the jurisdiction of the Family Court and we find the impugned order is not sustainable.

Hence, we allow the appeal by quashing and setting aside the impugned order dated 02.08.2025. We may record that it is different

thing that the Family Court determine the entitlement of petitioner to claim the said relief. But, the petition could not have been rejected on the ground of lack of jurisdiction.

The appeal is allowed in the aforesaid manner.

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGRE, J.)