



2025:AHC:175185-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

FIRST APPEAL No. - 789 of 2025

Mohammad Israil

.....Appellant(s)

Versus

Smt. Hummera

.....Respondent(s)

Counsel for Appellant(s)	:	Sunil Kumar
Counsel for Respondent(s)	:	

Court No. - 39

HON'BLE ARINDAM SINHA, J.

HON'BLE ARUN KUMAR SINGH DESHWAL, J.

1. Mr. Sunil Kumar, learned advocate appears on behalf of appellant. He submits, his client's brother died. He left behind his widow, son and daughter. The widow remarried. His client filed for custody. At that time, his daughter was less than 7 years old. On her attaining 7 years' age his client applied for bringing on record the fact. By impugned order dated 10th September, 2025, the amendment application stood rejected. The appeal was filed in time.

2. On query, Mr. Sunil Kumar relies on view taken by a learned single Judge of this Court in **Smt. Jyoti vs. Ankit Dubey** reported in **2023 (158) All Law Reports 375**. He submits, the view was, interlocutory orders of the Family Court having trappings of a judgement, are appealable under section 19(1) of Family Courts Act, 1984.

3. We find stamp reporter has remarked that the appeal appears to be not maintainable. Moreover, in this regard there has been delivered **judgement dated 17th July, 2025 in First Appeal no. 285 of 2025 (Dr. Prakhar Kumar Vs. Dr. Aditi Dhaundiyal)** by a Bench, in which one of us (Arindam Sinha, J.) was party. Paragraph 10 from the judgment is reproduced below.

"10. Guardians and Wards Act, 1890, as aforesaid, has section 12 providing for power to make 'interlocutory order'. Then came legislation by the Act of 1984. Parliament in the 35th year of the Republic of India acted upon the bill bearing statement of objects and reasons saying, inter alia, the need was, therefore, felt, in the public interest, to

establish Family Courts for speedy settlement of family disputes. By clause 2(i) in the statement of objects and reasons it was said, the bill sought to, inter alia, provide for only one right of appeal, which shall lie to the High Court. It was one of the objects of the bill, enacted by Parliament. Section 19 as amended stands in the statute by the Act of 1984. To say section 12 in the Act of 1890 cannot control section 19 in the Act of 1984 would lead to presumption that the Legislature attached different meanings for word 'interlocutory' as appearing in the Act of 1890, the Code of 1908 and the Act of 1984."

(emphasis supplied)

4. Appellant must find his remedy by filing civil miscellaneous writ petition because the appeal is not maintainable. It is **dismissed** as not maintainable. The dismissal will not prevent appellant from finding his remedy.

5. Mr. Sunil Kumar submits, the Family Court proceeded to hear the matter and reserved judgement. Appellant has liberty to communicate website copy of this order to the Family Court by way of an application, with prayer for adjournment. Also, Mr. Sunil Kumar may have return of the certified copy by substituting true photostat copy.

September 26, 2025
Vandana

(Arindam Sinha,J.)

(Arun Kumar Singh Deshwal,J.)