

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

WRIT PETITION NO.6871 OF 2015

Abhishek Rabindra Singh : Petitioner.
Versus
Smt. Lovely Abhishek Singh : Respondent.

Mr. N K Singh for the Petitioner
Mr. Rakesh Agrawal for the Respondent.

CORAM : R. M. SAVANT, J.
DATE : 06th October 2015

P.C.

1 The writ jurisdiction of this Court under Article 227 of the Constitution of India is invoked against the order dated 20/11/2014 passed by the learned Civil Judge, Senior Division, Vasai by which order the Application (Exhibit 5) for stay of the decree in M.P. No.130 of 2012 came to be allowed and resultantly, the effect and operation of order dated 20/02/2013 passed in M.P. No.130 of 2012 came to be stayed.

2 The said marriage petition i.e. M.P. No.130 of 2012 was filed by the parties seeking divorce by mutual consent. The said M.P. No.130 of 2012 came to be decreed by the order dated 20/02/2013. Thereafter the application being M.A. No.24 of 2013 came to be filed by the Respondent-wife on the ground that the said decree was obtained by playing fraud on the Court. It is pending consideration of the said application, that the instant application

(Exhibit 5) came to be filed seeking stay of the said decree. The tenability of the said application is also questioned by the Petitioner.

3 The Trial Court was of the view that since the decree is sought to be challenged on the ground of a fraud having been played on the court, it would be necessary to go into the said aspect. However, pending consideration of the said Misc. Application No.24 of 2013, the Trial Court was of the view that the decree would have to be stayed and accordingly stayed the decree by the impugned order.

4 In my view, no fault can be found with the order granting stay of the application being Misc. Application No.24 of 2013. Hence no case for interference in the writ jurisdiction of this Court is made out. The learned counsel for the Petitioner states that the said application being Misc. Application No.24 of 2013 be directed to be disposed of within a particular time frame. The Trial Court is accordingly directed to hear and decide the said Misc. Application No.24 of 2013 latest by 31/05/2016. With the aforesaid directions, the above Writ Petition is disposed of.

[R.M.SAVANT, J]

Certified to be true and correct copy of the original signed Judgment.