

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

CIVIL APPLICATION NO. 236 OF 2014
IN
FAMILY COURT APPEAL NO. 175 OF 2009
WITH
CIVIL APPLICATION NO. 26 OF 2015
IN
FAMILY COURT APPEAL NO. 175 OF 2009

Kedar Patwardhan

..Applicant/Appellant.

v/s.

Manjusha Patwardhan

..Respondent

Mr. S.A.Rajeshirke for the Applicant.

Mr.T.D.Deshmukh, for the Respondent.

**CORAM : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI,JJ.
DATED : JANUARY 16, 2015.**

P.C.

1. This application is taken out for modification of clause (3) of the consent terms and decree dated 30.11.2009 passed by this court in Family Court Appeal No.175 of 2009.
2. The parties filed consent terms in Family Court Appeal No.175

of 2009. In terms of the consent terms parties agreed for divorce by mutual consent and decree is accordingly passed. Clause (3) of the consent terms relates to the arrangement of the custody of the minor child Gauri. Under Clause 3(a) the custody of the the minor child Gauri was to remain with the applicant for a period of one year and for the next succeeding year it was to remain with the respondent wife, and this cycle of custody of the minor child Gauri was to continue in the same fashion until the minor child attained age of majority i.e. on 14th March, 2021. Under clause 3(k) it was agreed, that in case any of the parties remarries first, the custody of the minor child Gauri was to be unconditionally handed over to the other party and the party who remarries first loses his/her right on Gauri's custody on permanent basis.

3. Learned counsel for the applicant states that subsequent to the date of the consent terms and decree of divorce in terms of consent terms, the respondent wife remarried on 6.6.2014. Mr. Deshmukh, learned Counsel for the respondent does not dispute this fact. In view of this position, clause (k) of the consent terms will come into operation and the respondent wife will lose her right to custody of

the minor child Gauri on permanent basis, and the permanent custody of Gauri will remain with the applicant husband.

4. Learned Counsel Mr. Deshmukh, having taken instructions from his client, states that he has no objection if the custody of the minor child Gauri remains with the applicant on permanent basis. He submits that the applicant should not interfere in the present matrimonial life of the respondent. Mr. Rajeshirke, learned counsel for the applicant, on instructions from his client makes a statement that the applicant shall not interfere in the present matrimonial life of the respondent. Both the parties also agree to comply with the rest of the consent terms which are yet to be complied with. Statement accepted.

5. In view of the above circumstances, consent decree stands modified accordingly. Civil application is disposed of.

6. In view of disposal of this civil application, nothing survives in Civil Application No. 26 of 2015 and the same is also disposed of.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)