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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10948 OF 2014

Mr.Ajit Goyal .. Petitioner

Vs.

Mrs.Payal Goyal .. Respondent

Ms.Indrayani M.Koparkar, Advocate for the Petitioner.
Mr.R.S.Upadhyay i/b Mr.A.M.Saraogi, Advocate for Respondent.

CORAM : R.G.KETKAR, J.

DATE : 09th February, 2015

P.C. :

. Heard Ms.Indrayani M.Koparkar, learned Counsel for the petitioner and Mr.R.S.Upadhyay, learned Counsel for the respondent.

2. By this petition under Article 227 of the Constitution of India, the petitioner has challenged the order dated 10/09/2014 in Civil Misc. Application No. 110 of 2014 Exhibit 1 in Petition No. A-1631 of 2008 & Petition No. A-605 of 2014. By the impugned order, the learned Principal Judge, Family Court, Mumbai rejected the transfer application made by the petitioner.

3. Mr. Upadhyay has raised preliminary objection to the maintainability of the writ petition. He submitted that Section 19 of the Family Courts Act, 1984 provides for an appeal against every

judgment and order, not being an interlocutory order, of a Family Court to the High Court both on facts and on law. The order rejecting the transfer application is not an interlocutory order. He, therefore, submitted that this proceeding is not maintainable. In support of this submission, he relied upon the order dated 24/11/2014 passed by this Court in Writ Petition No. 10182 of 2014.

4. In view of this position, Ms.Koparkar seeks permission to withdraw this petition with a liberty to file substantive first appeal.

5. On the motion made by Ms.Koparkar, petition is allowed to be withdrawn with liberty as prayed for. All the contentions of the parties on merits are expressly kept open.

6. At this stage, Ms.Koparkar submits that the petitioner is a resident of Delhi and within one week from today, she will file appeal. She further states that next date of hearing before the Family Court is 12/02/2015. In view thereof, notwithstanding withdrawal of the petition, for a period of 2 weeks from today, the Family Court will not proceed with the petitions.

(R.G.KETKAR, J.)