

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

APPEAL AGAINST ORDER NO.46 OF 2014

Sau. Sangita W/o Prakash Kirde

..vs..

Prakash S/o Payoshnidhar Kirde

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders

Court's or Judge's order

Shri J.B. Gandhi, counsel for the Appellant.

Shri S.Y. Deopujari, counsel for the Respondent sole.

CORAM : A.P. BHANGALE, J.

DATE : JULY 28, 2015.

Heard learned counsel for the rival parties.

By this appeal, the appellant-wife challenges interim injunction order, passed below Exh.6 in pending matrimonial B.Petition No.5 of 2014, on 23.5.2014 whereby learned Judge, Family Court at Akola restrained the wife from causing obstruction to the husband to exercise his right of residence in the matrimonial home and both wife and husband were directed to exercise their right peaceably and without disturbance to each other till disposal of the main petition.

Learned counsel for the respondent-husband raises an objection regarding maintainability of this appeal as in view of Section 19(1) of the Family Courts Act, 1984, no appeal is entertainable against an

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interlocutory order passed by the Family Court. He submits that since there is statutory bar in view of Section 19(1) of the Family Courts Act, 1984 to entertain any appeal against an interlocutory order passed by the Family Court, this Court ought not to entertain the appeal against an interlocutory order passed in the main petition pending before the Family Court at Akola.

Learned counsel for the appellant-wife submits that the appeal is maintainable as per some judicial precedent of this Court. If that is so, the appellant-wife should have availed alternative remedy if permissible in law and not by way of this appeal against an interlocutory order which is statutorily barred. Learned counsel now prays for to permit withdrawal of the appeal.

The appeal is, therefore, dismissed as withdrawn. There shall be no order as to costs.

JUDGE

!! BRW !!

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