

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9084 OF 2015

Mrs. Rajashri Milind Khairnar	..	Petitioner
VS.		
Mr. Milind Atmaram Khairnar	..	Respondent

Mr. R. N. Gite for Petitioner.
Mr. R. D. Suryawanshi for Respondent.

CORAM : M. S. SONAK, J.
DATE : 19 AUGUST 2016

P.C :

- 1] There is no necessity to grant Rule in the present petition in view of the order which is proposed to be made.
- 2] The grievance of the petitioner is that she attempted to file an application dated 16 June 2015 before the family court seeking recall of judgment and decree dated 24 April 2015 in petition no. F-316/2014 on the ground that the said judgment and decree was obtained by the respondent by practicing fraud and coercion. It is the case of the petitioner that such application was not even accepted by the family court, on the grounds, that such an application is not maintainable and in any case the family court lacks jurisdiction to recall the judgment and decree already made.
- 3] Mr. Suryawanshi, learned counsel for the respondent rightly point out that there is no order made by the family court and therefore, there is no material on record to accept position that such

an application was indeed attempted to be filed by the petitioner and that the same was not received.

4] Rather than get into such controversy, this petition can be disposed of with a direction that the family court accepts the application dated 16 June 2015, which is at Exhibit 'C' (page 36 of the paper book of this writ petition), if the same is presented within two weeks from today. Thereafter, the family court shall issue notice to the opposite party and decide such application in accordance with law and on its own merits. All questions with regard to maintainability or otherwise are specifically kept open.

5] It is made clear that this court has not expressed any opinion whatsoever on the merits of the matter or also, on the issue of maintainability of such application.

6] The petition is accordingly disposed of with the aforesaid directions.

7] All concerned to act on basis of authenticated copy of this order.

(M. S. SONAK, J.)