

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FAMILY COURT APPEAL NO.215 OF 2013

Mrs. Samita @ Shamita Vikrant Deshpande Appellant
V/s

Mr. Vikrant Chandrakant Deshpande Respondent

Mr. S.B. Rajbhar for the Appellant.

Mr. A.A. Garge and Mr. Kashyap Bhalerao for the Respondent.

CORAM : A.S. OKA &
A.A. SAYED, JJ.

DATED : 19 SEPTEMBER 2016

ORAL JUDGMENT: (Per A.S. Oka, J.)

1 Admit. Advocate for the Respondent waives service. The learned Counsel appearing for the Respondent on instructions of the Respondent states that instead of keeping the Appeal pending, by setting aside the impugned decree, the Petition filed by the Respondent husband be remanded to the Family Court with a direction to dispose of the Petition in a time bound schedule.

2 The learned Counsel appearing for the Appellant states that the Appellant will file a Written Statement within the time fixed by this Court.

3 Hence, we dispose of the Appeal by passing following order:

ORDER

- i) The impugned judgment and decree dated 9 October 2012 passed in M.J. Petition No.A-2659 of 2010 is hereby quashed and set aside and the said Petition is restored to the file of the learned Judge of the Family Court No.6, Mumbai. We direct the Appellant and the Respondent to appear before the learned Judge of the Family Court No.6, Mumbai on 16 November 2016 at 11 a.m. We make it clear that no further notice of the date fixed before the Family Court, Mumbai is required to be issued to both the parties;
- ii) It will be open for the Appellant to file Written Statement within three weeks from the date fixed for appearance. We make it clear that the Appellant will not be entitled to any further time to file Written Statement. On failure of the Appellant to file Written Statement within the stipulated time, the Family Court, Mumbai will free to proceed without Written Statement of the Appellant. We make it clear that under no circumstances, the Appellant is entitled to seek extension of time to file Written Statement;
- iii) Considering the fact that the matrimonial Petition filed by the Respondent husband is of the year 2010, we direct the learned Judge of the Family Court at Mumbai to give necessary priority to the disposal of the matrimonial Petition. The Family Court, Mumbai

shall endeavor to decide the Matrimonial Petition as expeditiously as possible and in any event on or before 31 August 2017;

- iv) We make it clear that if the parties or any of them do not co-operate with the learned Judge of the Family Court, Mumbai in expeditious disposal of the matter, the learned Judge shall submit a report addressed to the Registrar (Judicial-I) of this Court. If such report is received, the same shall be forthwith placed before the concerned Court;
- v) The Appeal is partly allowed in above terms. All contentions on merits are kept open;
- vi) Needless to add that if Written Statement is filed by the Appellant within the time stipulated by this Court, the learned Judge of the Family Court, Mumbai shall permit the Respondent husband to lead further evidence in addition to the evidence which is already adduced by him.
- vii) The concerned Court to act upon an authenticated copy of this judgment.

(A.A. SAYED, J.)

(A.S. OKA, J.)

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