

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.186 OF 2016
IN
FAMILY COURT APPEAL NO.215 OF 2014

Mrs. Nandini Satish Utekar **..... Applicant/Appellant**

V/s

Mr. Satish Shantaram Utekar **..... Respondent**

Mr. Yogesh katira i/b Mr. Sanjay P. Shinde for the Applicant/
Appellant.

Ms. Apoorva Khandeparkar i/b Ms. Shilpa A. Joshi for the Respondent.

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

DATED : 28 JULY 2016

ORDER:

1 Heard the learned Counsel appearing for the Applicant/Appellant
and the learned Counsel appearing for the Respondent.

2 The present Application is filed by the wife who has preferred the
Family Court Appeal for challenging the Decree passed by the learned
Principal Judge of the Family Court at Mumbai by which the marriage
between the Applicant and the Respondent was annulled on the ground

that it was a voidable marriage. As none appeared for the Applicant/Appellant, the Family Court Appeal was dismissed for non-prosecution by an order dated 27 August 2015. Under what circumstances the learned Advocate for the Applicant could not remain present before this Court is set out in the Application and in particular in paragraph 4 onwards. The opposition of the learned Counsel appearing for the Respondent is on the ground that even on earlier two dates, none appeared for the Applicant. Her second objection is that there is a delay of 65 days.

3 Substantive Family Court Appeal preferred by the Applicant wife was dismissed for non-prosecution. The Appeal was dismissed as the Advocate appointed by the Applicant was absent. Therefore, the Applicant cannot be allowed to suffer. Hence, prayer for restoration will have to be allowed. The learned Counsel appearing for the Applicant prays for continuation of ad-interim relief which was granted on 24 September 2014. The said ad-interim relief was vacated on 27 August 2015. Therefore, the prayer for ad-interim relief will have to be considered when the Appeal is heard for admission.

4 Accordingly, the order of dismissal dated 27 August 2015 is set aside and Family Court Appeal No.215 of 2014 is restored to the file.

5 The restored Family Court Appeal shall be fixed for admission on 18 August 2016 under the caption of “fresh admission”.

(A.A. SAYED, J.)

(A.S. OKA, J.)

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