

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FAMILY COURT APPEAL NO. 37 OF 2014

Lata Nagsen Phulambrikar .. Appellant

Versus

Nagsen Kamlakar Phulambrikar .. Respondent

Shri R. M. Joshi, Advocate for the Appellant.
Ms. Rashmi P. Gaur, Advocate for Respondent.

**CORAM : S. V. GANGAPURWALA AND
SANGITRAO S. PATIL, JJ.**

DATE : 04TH MAY, 2017.

PER COURT :

. Mr. Joshi, the learned counsel for the appellant states that, the impugned judgment delivered by the Judge, Family Court, Aurangabad is erroneous. The marriage between the appellant and the respondent cannot be said to be null and void. The marriage between appellant and the respondent is legal and valid and not void on any of the grounds laid down under the provisions of the Hindu Marriage Act. The evidence has not been properly appreciated. The pleadings are not properly construed. The learned counsel submits that, from the wedlock the appellant and the respondent have one son namely Devdatta @ Devesh, who is at present aged about 11 years.

2. Ms. Gaur, the learned counsel for the respondent submits that, the appellant had suppressed her earlier marriage. This fact came to the knowledge subsequently. The evidence has been properly appreciated.

3. We have gone through the judgment delivered by the Judge Family Court, Aurangabad, so also evidence discussed. Upon appreciation of evidence, the Judge, Family Court has come to the conclusion that, the appellant had suppressed about her earlier marriage and that no divorce had taken place and during subsistence of first marriage, second marriage was performed. The appellant had committed fraud within the meaning of Sec. 12(2)(i) of the Hindu Marriage Act and the said fraud is discovered subsequently. The said finding is arrived at on plausible appreciation of evidence. The said finding needs no interference.

4. At this stage, Mr. Joshi, the learned counsel for the appellant submits that, from the said marriage one son namely Devdatta @ Devesh aged 11 years is begotten and even no provision is made for the maintenance of said child. On the last date, we had asked the learned counsel for respective parties to arrive at consensus in that regard.

5. Today, Miss Gaur, the learned counsel for the respondent

on instructions of the respondent, who is present in the Court states that, the respondent would pay Rs. 50,000/- (Rs. Fifty thousands only) per year as maintenance to the child Devdatta @ Devesh till he attains 21 years of age. The said statement is accepted.

6. We confirm the judgment and decree passed by the Judge, Family Court, Aurangabad. The respondent shall pay Rs. 50,000/- (Rs. Fifty thousands only) per year as maintenance for the son Devdatta @ Devesh till he attains 21 years of age as agreed by the parties. The said amount shall be paid from the year 2017.

7. Mr. Joshi, the learned counsel for the appellant on instructions of the appellant, who is also present in the Court states that, the appellant would take steps for compounding the complaint U/Sec. 498-A of the Indian Penal Code and also withdraw all other cases. The family court appeal as such stands disposed of. No costs.

[SANGITRAO S. PATIL, J.]

[S. V. GANGAPURWALA, J.]