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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FAMILY COURT APPEAL NO. 30 OF 2016

Akshay Vijay Amodkar	..Appellant.
Vs.	
Poonam Akshay Amodkar	..Respondent.

WITH

FAMILY COURT APPEAL NO. 37 OF 2016

Akshay Vijay Amodkar	..Appellant.
Vs.	
Poonam Akshay Amodkar	..Respondent.

WITH

CIVIL APPLICATION NO.53 OF 2016

IN

FAMILY COURT APPEAL NO. 37 OF 2016

Mr. Himanshu Nagarkar i/b Mrs. Taubon F. Irani for Appellant in both Appeals and applicant in CAM-53/2016.

Mr. Ashish A. Mehta for Respondent in both Appeals and applicant in CAM-53/2016.

**CORAM: R.M. BORDE AND
A.S. GADKARI, JJ.**

DATE: 12 JANUARY 2017.

P.C.:

1 The respondent-wife in Family Court Appeal No.37 of 2016

presented the petition bearing P.A. No.905 of 2013 claiming restitution of conjugal rights. Her petition came to be allowed by the Family Court on 29 October 2015. The said Order is impugned in the Appeal presented by the husband bearing No.37 of 2016. The Family Court Appeal No.30 of 2016 presented by the husband is directed against the Order passed by the Family Court in P.A. No.410 of 2016 rejecting the application presented by the appellant-husband claiming decree of divorce.

2 Both parties to the litigation have decided to settled their dispute amicably and have presented the consent terms on record. The consent terms are signed by both parties. The learned counsel for the parties identified both parties and put their respective signatures. Both parties are present in the Court and admit the contents recorded in the consent terms. The consent terms are taken on record and marked “X-1” for identification. The respective parties have also presented their affidavits supporting the contents recorded in the consent terms. The same are taken on record and marked “X-2” collectively.

3 It is agreed by the appellant-husband to pay amount of Rs.1,25,000/- to the respondent-wife towards one time lump sum amount

towards maintenance/alimony/residence. The Demand Draft of the said amount has been handed over to the respondent-wife and she admits receipt of the same. It is also decided that the respondent-wife is in possession of her stridhan and has no further claim subsisting from the appellant-husband or his family members in respect of the same. It is further agreed that there shall be no further claim in respect of movable as immovable properties owned by the parties against each other. Parties have decided to withdraw the cases filed against each other within seven days from recording the consent terms. The respondent-wife has withdrawn the allegations levelled against the husband and both the parties have agreed to apply for decree of divorce under Section 13B of the Hindu Marriage Act. The respondent-wife has agreed not to press the decree passed in her favour directing the husband to resume co-habitation with her. The respondent-wife has agreed the request of the petitioner to relinquish claim of the restitution of conjugal right raised in P.A. No.905 of 2013 decided by the Family Court on 29.10.2015.

4 In view of the above, the decree passed by the Family Court in P.A. No.905 of 2013 directing the husband to resume co-habitation with the respondent-wife is quashed and set aside. Family Court Appeal No.37 of

2016 presented by the appellant-husband is allowed in terms of Consent Terms which is taken on record and marked as “X-1”.

5 Since the parties have agreed to apply for divorce by mutual consent under Section 13-B of the Hindu Marriage Act, Family Court Appeal No.30 of 2016 presented by the husband is accordingly disposed of. There shall be no order as to costs in both the appeals.

6 In view of the disposal of both the appeals, Civil Application does not survive and the same is also disposed of.

(A.S. GADKARI,J.)

(R.M. BORDE, J.)