

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.4366 OF 2017**

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| Ravindra Harshad Parmar | .. | Petitioner |
| Vs.                     |    |            |
| Dimple Ravindra Parmar  | .. | Respondent |

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Mr. Yuvraj P. Narvankar for the petitioner.  
Mr. Abhijeet D. Sarwate for the respondent.

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**CORAM : R.D. DHANUKA, J.**  
**DATE : 6th November 2017**

**P.C.:**

. Rule, returnable forthwith. Learned counsel for the respondent waives service. The petition is heard finally.

2. By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 16<sup>th</sup> January 2017 passed by the learned Judge of Family Court No.5, Pune rejecting the application filed by the petitioner inter alia praying for staying the petition filed by the respondent-wife till the decision of the proceedings filed by the petitioner-husband i.e. P.B. No.15 of 2015.

3. The petitioner has filed a petition bearing P.B. No.15 of 2015 for a declaration that the judgment passed by the Foreign Court in FM-13/1369 is binding and enforceable. In the said matter, the Foreign Court has decided the issue of divorce between the parties, custody of the child and child support. The respondent-wife has not only opposed the said petition filed by the said petitioner but also filed independent

proceedings bearing P.B. No.11 of 2014 for a declaration that the judgment passed by the U.S. Court is non-est and not binding on her. The respondent-wife also filed a separate proceedings bearing P. B. No.1265 of 2012 seeking divorce, custody and maintenance.

4. By the impugned order, the learned Judge of the Family Court No.5, Pune has arrived at a conclusion that both the parties are insisting to take hearing on their applications respectively. It is held that if after considering evidence of both parties, the Court comes to the conclusion that if the judgment delivered by the Foreign Court is not binding on the parties, then the Court will consider the divorce petition filed by the petitioner. It is further held that if after considering an evidence of both parties, the Court comes to the conclusion that the judgment passed by the Foreign Court is conclusive and binding as per Section 13 of the Civil Procedure Code, 1908, then the divorce petition filed by the wife will not be maintainable and would be liable to be dismissed.

5. Considering these facts, the learned Judge of the Family Court No.5, Pune has clubbed all the three proceedings in the interest of justice in order to avoid multiplicity of the proceedings.

6. I have heard the learned counsel appearing for the parties. It is a common ground that both the parties have filed cross proceedings in so far as the issue whether decree passed by the U.S. Court in the proceedings for divorce and other reliefs by the petitioner would be binding on the Family Court and also the respondent or not. The

respondent-wife has also filed a separate proceeding for divorce and other reliefs.

7. In my view, the learned Judge of the Family Court in the impugned order has rightly held that if after considering evidence of both parties, the Court comes to the conclusion that the judgment passed by the Foreign Court is not binding on the parties, then the Court will consider the divorce petition filed by the wife. If conclusion is otherwise, the proceedings filed by the wife for divorce and other reliefs would not be maintainable. The learned Judge has rightly held that the issue or claim for divorce and other reliefs made by the wife in her main petition is totally dependent on decision of the proceedings filed by the petitioner and the respondent in respect of the decree passed by the U.S. Court.

8. I do not find any infirmity in the order passed by the learned Judge of the Family Court No.5, Pune. Parties are directed to proceed with the evidence and the arguments in all the three matters. It is however, made clear that the learned Judge of the Family Court shall render the judgment in the proceedings bearing P.B.Nos.11 of 2014 and 15 of 2015. If the learned Judge of the Family Court comes to the conclusion that the decree passed by the U.S. Court is not binding on the family Court as well as the respondent, the Family Court shall also pronounce the judgment in so far as the proceeding bearing P.A. No.1265 of 2012 is concerned. If the learned Judge comes to the conclusion that the foreign decree is binding on the Family Court as well as the respondent, the issue arising in the proceedings for divorce filed by the respondent would be decided excluding the issues which would be

concluded by the decree passed by the U.S. Court. It is made clear that if any interim application is pending before the Family Court filed by the either party, the same shall be decided independently of the issue whether the Family Court has jurisdiction or not without prejudice to the rights and contentions of both the parties subject to the outcome of the final decree. Both the parties are directed to co-operate with the learned Judge of the Family Court in expeditious disposal of the aforesaid proceedings. The Family Court shall make an endeavour to dispose of these proceedings expeditiously and not later than one year from the date of communication of this order.

9. Writ petition is accordingly dismissed in aforesaid terms. Rule is discharged. No order as to costs.

***R.D. DHANUKA, J.***