

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

WRIT PETITION NO.5335 OF 2017

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr.Sumit S. Kothari for the Petitioner

Mr.Mahendra Sureka, respondent present in person

CORAM : K. K. TATED, J.

DATE : JUNE 16, 2017

P.C.:

1 Not on board. At the request of Advocate for the petitioner, matter is taken on board for urgent orders.

2 Heard the learned counsel for the Petitioner and respondent party in person.

3 By this Petition under Article 227 of Constitution of India, the petitioner challenges the order dated 20.4.2017 passed by Family Court, Mumbai at below Exhibit-1 in Petition No.A 1270 of 2011 directing respondent husband to join Manu Aggarwal as co-respondent and serve copy on him.

4 It is the contention of the advocate for the Petitioner that the Family Court passed order on its own motion. Neither the respondent husband or anybody made any application for joining Manu

Aggarwal as co-respondent.

5 The learned Counsel for the Petitioner submits that Family Court also directed Petitioner wife to serve copy of written statement to Mansi Gupta in order to offer an opportunity to her to apply for leave to intervene in Petition if she so desires.

6 The learned Counsel for the Petitioner submits that actually main petition No.A-1270 of 2011 was closed for orders on 24.3.2017 and adjourned for judgment. On that date, matter was adjourned on 6.4.2017 for judgment. Hence, impugned order is required to be set aside.

7 Respondent party in person, Mr.Mahendra Sureka submits that he does not want to press the order dated 20.4.2017 passed by Family Court directing him to join Manu Aggarwal as co-respondent. He submits that as matter is already closed for judgment, Family Court may be directed to decide the same on its own merits. To that effect, respondent party in person gave in writing. Same is taken on record and marked 'X' for identification.

8 Considering the submissions made by the learned counsel for the petitioner that neither Petitioner nor respondent made any application for joining Manu Aggarwal as co-respondent and or to serve the proceeding on Mansi Gupta and as matter was closed for judgment, I am of the opinion that

Petitioner has made out a case for allowing this Writ Petition. Apart from that, respondent party in person have also no objection to dispose of this Writ Petition. Hence, following order is passed:

- a) Order dated 20.4.2017 passed by Family Court, Mumbai at below Exhibit-1 in Petition No.A 1270 of 2011 is set aside.
- b) Family Court to pass judgment in Petition No.A 1270/2011 as per roznama dated 24.3.2017 and 6.4.2017 on its own merits.
- c) Writ Petition stands disposed of accordingly.
- d) No order as to costs.

(K.K.TATED, J.)