

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

WRIT PETITION NO.11352 OF 2016

Mr. Sunmit Keshav Divakar

..Petitioner

Versus

Mrs. Poornima Sunmit Divakar

(Miss. Poornima Swaminathan)

..Respondent

Mr. M. R. Sabnis for the Petitioner.

Mr. Rohan Prabhu for the Respondent.

Mrs. Poornima S. Divakar – Respondent present.

Mr. S. K. Divakar – Petitioner present.

CORAM : R. M. SAVANT, J.

DATE : 6th FEBRUARY, 2017

PC.

1 Not on board. Mentioned for urgent relief.

2 The above Petition takes exception to the order dated 02.08.2016 passed by the Learned Judge of the Family Court No.7, Mumbai. By which order, the Learned Judge of the Family Court fixed the interim maintenance at Rs.5000/- per month for the Respondent wife from the date of the application i.e. since 12.06.2015. The above Petition has been filed by the husband. The Learned Counsel for the Respondent Mr. Rohan Prabhu filed an affidavit dated 06.02.2017 of the Respondent, wherein in paragraph 5, it has been stated that the Respondent has no objection if the prayer of setting aside the impugned order dated 02.08.2016 passed by the Family Court is granted. The same has been reiterated in prayer clause (a) of the affidavit which for the sake of ready

reference is reproduced hereinunder :-

“(a) This Hon. Court may please allow the Writ Petition filed by the Petitioner/Original Respondent and allow his prayer of setting aside the requisite Interim Maintenance Order dated 02.08.2016 passed by the Hon. Family Court No.7 on Exhibit 6 and I have no objection for returning the amount of Rs.35000/- to the Petitioner deposited with this Hon. Court by the Petitioner and dispose off this Writ Petition”

3 The Respondent Mrs. Poornima Sunmit Divakar is personally present in Court and states that she has sworn the affidavit herself and that she has read the affidavit and has no objection to the order being set aside and the amount of Rs.35000/- deposited in this Court by the Petitioner being refunded to him.

4 In view of the affidavit dated 06.02.2017 of the Respondent, the impugned order dated 02.08.2016 is accordingly set aside and the Petition is accordingly disposed of. The affidavit is taken on record and marked as “X” for identification. In terms of the said affidavit the amount of Rs.35000/- deposited in this Court by the Petitioner is required to be refunded to the Petitioner. The Petitioner would accordingly be entitled to withdraw the said amount.

5 Parties to act on a copy of this order duly authenticated by the Court Shirestedar.

[R.M.SAVANT, J]