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

**CIVIL APPLICATION (L) NO. 33415 OF 2016
IN
FAMILY COURT APPEAL NO.37 OF 2013**

Mahendra Janardhan Ranpise ...Applicant
vs
Ms Sunita Mahendra Ranpise & Anr. ...Respondents.

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Mr Vivekanand S. Tadke for the Applicant in CAM(L) 33415 of 2016.
Mr Rupesh K. Bobade for the Respondent.

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**CORAM : A.S.OKA AND
ANUJA PRABHUDESSAI, JJ.
10 JANUARY, 2017**

P.C. :

This application is made by the husband, who is the Respondent in the Family Court Appeal preferred by the Respondent in this Application. The Applicant filed a Petition for divorce and for custody of minor children. By the decree which is impugned in the Appeal, a decree for divorce has been passed by the Family Court, Pune and the prayer for custody of the children has been rejected. The Appeal preferred by the Respondent – wife has been admitted.

2 There are two prayers in this application. The first prayer is for fixing an early date of hearing. The second prayer is for directing the Respondent – wife to vacate the residential premises in her possession.

3 As far as the first prayer is concerned, since the Family Court Appeals from the year 2008 onwards are pending, out of turn priority cannot be given for the hearing of this appeal of the year 2013. As far as the prayer for possession is concerned, the Applicant is virtually seeking a decree of possession in an Appeal preferred by the Respondent. Even in the Petition before the Family Court on which impugned decree has been passed, the Applicant did not apply for a decree of possession. Therefore, the prayer for delivery of possession is completely mis-conceived. The Applicant will have to adopt appropriate proceedings in that behalf. Subject to what is observed above, the Application is rejected. No order as to costs.

(ANUJA PRABHUDESSAI J.)

(A. S. OKA, J)