

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****FAMILY COURT APPEAL NO.133 OF 2016****ALONG WITH****CIVIL APPLICATION NO.208 OF 2016****ALONG WITH****CIVIL APPLICATION NO.209 OF 2016**

Mr. Al Farook Kably.] ... Appellant /
Applicant

Versus

Zain Al Farook Kably.] ... Respondent

None for Appellant / Applicant.

Mr. A. Dasgupta a/w Shrey Shah i/b Jhangiani Narula & Associates
for Respondent.

**CORAM :- K. K. TATED &
SARANG V. KOTWAL, JJ.**

DATE :- 16 FEBRUARY, 2018

P. C. :-

1. Heard learned Counsel for Respondent.
2. Mr. Dasgupta, learned Counsel for Respondent, submits that by this First Appeal the Appellant Mr. Al Farook Kably challenged the Judgment and Decree dated 11/12/2013 passed by the Judge, Family Court No.2, Mumbai, in Petition No.A-2704 of 2009 and Petition No.A-266 of 2010. He submits that the Family Court

dissolved the marriage dated 5th January, 1975 solemnized between the Appellant and the Respondent under Section 2(ii), (iv) and (viii) (a) and (d) of the Dissolution of Muslim Marriages Act, 1939. He further submits that the Family Court restrained the Appellant from disturbing the Respondent's peaceful possession over the matrimonial home i.e. 30A, Sagar Sangeet Bldg., Shahid Bhagat Singh Road, Colaba, Mumbai – 400 005. He further submits that the Appellant – husband used to appear party in person. He submits that the Appellant died on 08/02/2018. To that effect, he placed on record death report along with certificate issued by Colaba Police Station, cause of death certificate and statement of death register issued by Municipal Corporation of Greater Mumbai. All these documents are taken on record and marked 'X' for identification. He submits that in view of the death of the Appellant, nothing survives in the present Family Court Appeal.

3. Considering the submissions made by the learned Counsel for the Respondent and perusing the impugned Judgment and Decree dated 11/12/2013, we are satisfied that nothing survives in the Family Court Appeal. Hence, the Family Court Appeal stands disposed of.

4. In view of disposal of the Family Court Appeal, Civil Applications do not survive and hence stand dismissed as infructuous.

(SARANG V. KOTWAL, J.)

(K. K. TATED, J.)