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

CIVIL APPLICATION NO.52 OF 2018
IN
FAMILY COURT APPEAL NO.194 OF 2014

Mrs Priya Milind Mangle … Applicant
v/s
Mr Milind Suresh Mangle … Respondent

Mr Ashish P. Pawar for Applicant.
Mr Vaibhav P. Patankar for Respondent.

CORAM : K.K. TATED AND
B.P. COLABAWALLA, JJ.

DATE : 15 March, 2018.

P.C. **:-**

1. Heard learned counsel for the parties.

2. This Civil Application is preferred by Applicant – wife for stay of clause No.1 of judgment and decree dated 2nd June 2014 passed by the Family Court No.5 at Bandra, Mumbai in Petition No.907 of 2009.

3. The learned counsel for Respondent filed their affidavit in reply to oppose the present Civil Application. He also relied on paragraphs 14 and 15 of the impugned judgment. He submits that

there is no question of staying clause No.1 of the impugned judgment and decree passed by the Family Court.

4. Considering the submission made by the learned counsel for Applicant and the averments made in Civil Application, we satisfy that the case is made out by the Applicant for stay. As the Family Court by impugned judgment and decree dated 2nd June 2014 allowed the Respondent's application under section 9 of the Hindu Marriage Act 1955, we are of the opinion that when the Applicant – wife is not ready to stay with Respondent, there is no question of forcing her to stay with the Respondent. We are satisfied that the Applicant has made out case and the impugned judgment and decree dated 2nd June 2014 is required to be stayed. Hence Civil Application is allowed as under :-

> "(a) clause No.1 of the impugned judgment and decree dated 2nd June 2014 is stayed till the final hearing and disposal of the Family Court Appeal. Clause 1 reads thus :-
>
> "(1) The respondent shall join the company of Petitioner within three months from the date of judgment i.e. 02.05.2014.
>
> (b) Civil Application is disposed off.
>
> (c) No order as to costs."

(B.P. COLABAWALLA, J) ***(K.K. TATED, J.)***

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