

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

**CIVIL APPLICATION NO.337 OF 2018
IN
FAMILY COURT APPEAL NO.197 OF 2015**

Agnes Payapaaly .. Applicant

IN THE MATTER BETWEEN

Eureka D/o Alfred Baptista .. Appellant

V/s.

Joy Anthony Payaapply .. Respondent

Mr.Vijay S. Kurle with Mr.Ajit Shedge for the applicant

Mr.G.S.Hegade i/b Ms.Pinky Bhansali for the appellant in Family
Court Appeal No.197 of 2015

**CORAM: K.K. TATED &
N. J. JAMADAR, JJ.**

DATED : DECEMBER 10, 2018

P.C. :

1 Heard.

2 By this Civil Application, third party is seeking relief for joining them as party Respondent in Family Court Appeal No.197 of 2015 and also direction to add the advocate Ms.Pinky Bhansali who filed her Vakalatnama in Family Court Appeal No.197 of 2015 on behalf of appellant Eureka D/o Alfred Baptista.

3 The learned counsel for the Applicant submits that Applicant is the mother of original Respondent Joy Antony Payapaaly. He submits that if any order is passed in Family Court Appeal No.197 of 2015 and or in pending Applications, same is going to affect her interest. Therefore, she is necessary party in Family Court Appeal. He further submits that in view of the averments made in paragraph 5 of the Civil Application, advocate Pinky Bhansali be made as a party Respondent in Family Court Appeal. In support of this contention, he relied on several authorities as stated in paragraph 4 of the Civil Application. On the basis of these submissions, the learned counsel for the Applicant submits that Applicant is necessary party in Family Court Appeal and hence, present Civil Application be allowed.

4 On the other hand, the learned counsel for the original appellant wife vehemently opposed the present Civil Application. He submits that neither the Applicant nor advocate on record for appellant in Family Court Appeal is necessary party in the present Family Court Appeal. He submits that there is no question of joining Advocate on record as party Respondent in the litigation itself. Therefore, there is no substance in the present Civil Application and same be dismissed with costs.

5 We have heard both the sides.

6 It is to be noted that in the present proceedings, the

appellant original Respondent challenges the judgment and decree dated 01.07.2015 passed by Family Court, Mumbai at Bandra in Petition No.A-696 of 2012 annulled the marriage between the original Petitioner and Respondent.

7 Being aggrieved by the said order, the appellant wife preferred Family Court Appeal No.197 of 2015. The said Appeal is admitted and the impugned order passed by Family Court dated 01.07.2015 is stayed. Bare reading of the Application and the impugned order dated 01.07.2015 passed by Family Court, there is no question of allowing applicant i.e. mother in law of Appellant to join herself as a party in Family Court Appeal. In Family Court Appeal, appellant has not claimed any relief against the applicant. Not only that, no purpose is going to be achieved by joining the applicant as party respondent. Not only that, there is no question of joining the Advocate on record itself in a litigation as a party Respondent, and that also in a proceeding in Divorce Act, 1869.

8 In view of these facts, we are of the opinion that the Applicant has filed frivolous Application in the present proceeding. Hence, same is required to be dismissed with costs.

9 Hence, following order is passed:

- a) Civil Application is dismissed.
- b) Applicant to pay cost of Rs.750/- to the Appellant Eureka

D/o Alfred Baptista.

c) Cost to be paid on or before 05.01.2019 and inform the Registrar in writing about the same.

d) If cost is not paid within stipulated time as stated hereinabove, Registry is directed to issue appropriate certificate / letter in the name of the concerned Collector for recovery of the said cost as arrears of land revenue as per Maharashtra Land Revenue Code and deposit the same in the Registry of this court.

(N. J. JAMADAR, J)

(K.K. TATED, J.)