

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

**CIVIL APPLICATION NO.377 OF 2018
IN
FAMILY COURT APPEAL NO.89 OF 2018**

Nilam Mahendra Jadhav .. Applicant

V/s.

Mahendra Ramchandra Jadhav .. Respondent

Mr.Anand Vadgaonkar for the applicant

Mr.Babasaheb D. Bhise for the respondent

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

DATED : DECEMBER 17, 2018

P.C. :

1 Heard the learned counsel for the parties.

2 By this Civil Application, Applicant wife is seeking to set aside the order dated 28.08.2018 passed by learned Registrar (Judicial-II) by which Civil Application No.122 of 2017 stands dismissed for want of service on the Respondent.

3 The learned counsel for the Applicant submits that Respondent already engaged Advocate and filed Vakalatnama. Therefore, there is no question of service on the Respondent. He

further submits that today also advocate represented the Respondent. He further submits that Respondent already filed Affidavit-in-Reply in Civil Application No.122 of 2017. He submits that in view of these facts, order dated 28.08.2018 be set aside and declared that Respondents are duly served.

4 The learned counsel for the Respondent vehemently opposed the present Civil Application. He submits that Applicant has not shown sufficient cause for setting aside the order dated 28.08.2018. He submits that the reason given by the Applicant in Civil Application that they have good chance of success in the present proceedings, is not correct. He submits that they do not have any case in the present proceedings. Hence, there is no question of allowing the present Civil Application.

5 Considering the submissions made by the learned counsel for the Applicant and the averments made in the Application, we are satisfied that the Applicant has made out a case for allowing the present Civil Application. Hence, following order:

- a) Order dated 28.08.2018 passed by learned Registrar (Judicial-II) is set aside.
- b) Civil Application No.122 of 2017 is restored on file for hearing on its own merits.
- c) The learned counsel for the Respondent waives service in Civil Application No.122 of 2017.

- d) Civil application stands disposed off accordingly.
- e) No order as to costs.

(N. J. JAMADAR, J)

(K.K. TATED, J.)