

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FAMILY COURT APPEAL NO. 13 OF 2018

Abbas Ali Akbar Rasekhinijed ..Appellant
Vs.
Fatima (Shahavaaz) Abbas Ali Rasekhine Jed ..Respondent

**WITH
FAMILY COURT APPEAL (ST) NO.7908 OF 2018
WITH
CIVIL APPLICATION (ST) NO.7909 OF 2018
WITH
CIVIL APPLICATION (ST) NO.7910 OF 2018
IN
FAMILY COURT APPEAL (ST) NO.7908 OF 2018**

Fatima (Shahavaaz) Abbas Ali Rasekhinijed ..Appellant
Vs.
Abbas Ali Akbar Rasekhinijed ..Respondent

Mrs. Seema Sarnaik with Sanchita Thakur for the Appellant in 13 of 2018 and for the Respondent in Civil Application (ST) No.7909 of 2018
Mrs. Sayali Bhaidkar for the Applicant in Civil Application (ST) No.7909 of 2018 for the Respondent in the 7908 of 2018.

**CORAM:-K. K. TATED & B. P. COLABAWALLA, JJ.
DATE :- APRIL 12, 2018.**

P. C.:

Heard. The learned counsel Ms. Sarnaik for the Appellant in Family Court Appeal No.13 of 2018 submits that her client Abbas Ali

Akbar Rasekhinijed present in Court. His presence is recorded.

2 In the Family Court Appeal No. 13 of 2018 by order dated 28th February, 2018, this Court had requested the learned Senior Counsel Mr. A. G. Damle to appear on behalf of the Respondent wife Smt.Fatima (Shahvaaz) Abbas.

3 Thereafter the learned Senior Counsel Mr. Damle requested advocate Ms Sayali Bhaidkar to file her Vakalatnama. Same is filed. Respondent wife Smt.Fatima also filed Family Court Appeal (st) No.7908 of 2018. In view of filing of Vakalatnama on behalf of wife in Family Court Appeal (St) No.7908 of 2018, we permit the learned advocate to file note of appearance on behalf of the Respondent wife in Family Court Appeal No. 13 of 2018.

4 With the efforts of the learned Senior Counsel Mr. Damle and the learned counsel for the Appellant husband, both of them filed consent minutes of order dated 12th April, 2018. We find that same is in the interest of wife also. Same is taken on record and marked "X" for identification which reads thus:-

MINUTES OF ORDER

“The parties mutually agree for passing the following order:-

- 1. The Respondent Smt. Fatima (Shahavaaz) Abbas Ali Rasekhine Jed in Family Court Appeal no. 13 of 2018 agree that the Order dated 30.10.2017 passed in Petition R.D.no. 26 of 2017 in Petition no. D-17 of 2013, passed by the Ld. Judge of Family Court, Thane be set-aside.*
- 2. The Respondent Abbas Ali Akbar Rasekhinijed in Family Court Appeal St. no. 7908 of 2018 agree to set-aside the Judgment and Order dated 21st April, 2016 passed in Petition no. D-17 of 2013 passed by the Ld. Family Court, Thane.*
- 3. The parties agree that Petition no. D-17 of 2013 shall be remanded to the Ld. Family Court, Thane to be heard on merits.*
- 4. Respondent in F.C.A no. 13 of 2018 undertakes to file a Written Statement within 2 months from today and liberty to parties to file any other documents.*
- 5. On failure of the Respondent to file the Written Statement, Judgment and Order dated 21st April, 2016 shall stand confirmed and execution proceedings Petition R.D no. 26 of 2017 in Petition no. D-17 of 2013 shall be restored and Ld. Family Court, Thane to decide the same on merits.*
- 6. In the event, on the respondent filing written statement, liberty to the parties to lead evidence afresh and examine their witnesses as they deem fit.*
- 7. Parties agree that they shall not take any adjournment and shall conduct the matter on day to day basis.*
- 8. Endeavor shall be made by both the parties to dispose of the matter within 9 months.*
- 9. The Ld. Family Court, Thane is requested to disposed of the petition no. D-17 of 2013 within 9 months.*

10. The Ld. Family Court, Thane shall not be weighed by the Order dated 28.06.2017 passed in Writ Petition no. 1772 of 2015 and shall disposed of the Petition no. D-17 of 2013 on its own merits.

11. Family Court Appeal is disposed of accordingly. No order as to cost.”

5 Same is accepted. Both Family Court Appeals stand disposed of in terms of the minutes of order.

6 In view of disposal of Family Court Appeals, nothing survives in the above Civil Applications and same stand disposed of accordingly.

(B. P. COLABAWALLA, J.)

(K. K. TATED, J.)