

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.11646 OF 2019
IN WP/7300/2019

MAYURI NILESH KAPILE
VERSUS
NILESH SUDHAKARRAO KAPILE

Mr.H.S.Surve, Advocate for the applicant.
Mr.H.H.Padalkar, Advocate for the respondent.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 18/10/2019

PER COURT :

1. I have heard the learned Advocates for the respective sides and have perused the order passed by this Court on 09/09/2019. Paragraph Nos. 2 and 3 of the said order read as under :-

“2. Learned Advocate for the respondent-husband submits that the learned Family Court, Aurangabad has already decided Petition No.C-6 of 2015 on its merits. An interlocutory order dated 21.05.2019 passed on application (Exhibit-16) is the subject matter of this petition. The petitioner-wife has already challenged the said judgment of the learned Family Court, Aurangabad through a Family Court appeal before the learned Division Bench of this Court.

3. Having recorded the statement made on instructions by the learned advocate for the respondent, this petition is disposed

off as being infructuous.”

2. Both the learned Advocates submit that the learned Family Court has decided Petition No.C-06/2015 on its own merits, save and except the issue of *stridhan* (स्त्रीधन) since that issue was subject matter of the impugned order dated 21/05/2019 passed by the Family Court below Exh.16. It is conceded that both the parties have preferred Family Court Appeals before the appropriate forum in view of the final judgment of the Family Court.

3. On 09/09/2019, the petition was disposed off under the impression created that the impugned order below Exh.16 would merge in the final judgment of the Family Court. What appears from the record is that the impugned order dated 21/05/2019 below Exh.16 is a stand alone order and since the issue of *stridhan* was decided in that order, the Family Court has not touched that issue in the final judgment. If, this be so, then the petition, which was disposed off as being infructuous, would not be rendered infructuous.

4. Considering the above, this civil application is allowed. The order of this Court dated 09/09/2019 is recalled and the writ

petition No.7300/2019 shall stand restored.

5. By the consent of the parties, list the writ petition in the “Urgent Admissions Category” on 19/11/2019.

(Ravindra V.Ghuge, J.)