

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FAMILY COURT APPEAL NO.42 OF 2019

ALONG WITH

CIVIL APPLICATION NO.47 OF 2019

Mr. Santosh Dnyaneshwar Deshmukh]
(Garud).] ... Appellant/Applicant

Versus

Mrs. Poonam Santosh Deshmukh (Garud).] ... Respondent

Mr. Ameya Borwankar for Appellant / Applicant
Mr. Nitin V. Gangal a/w Ms. Namita M. Mestry for Respondent.

CORAM :- AKIL KURESHI &
SARANG V. KOTWAL, JJ.

DATE :- 27 MARCH, 2019

P. C. :-

1. This Appeal is filed by the husband challenging the order dated 03/11/2018 passed by the Family Court, Pune, below Exh.16 and Exh.27 in Petition 'A' No.537 of 2017. By the impugned order, the Family Court rejected the prayer of the husband for visitation right to the daughter aged about 8 years. This application for visitation

right was filed in the petition filed by the husband for restitution of conjugal rights.

2. A preliminary objection was raised by the learned Counsel for the Respondent about the maintainability of this Appeal on the ground that in terms of Section 19 of the Family Courts Act, 1984, no Appeal would be maintainable against the interlocutory order. Learned Counsel for the Appellant, however, argued that the application for visitation right was for permanent order and not by way of interim arrangement pending the petition for restitution of conjugal rights.

3. We have perused the documents on record. The application for visitation right has been filed in the petition under Section 9 of the Hindu Marriage Act, 1955 seeking restitution of conjugal rights. The first part of this application so states. Very clearly therefore, the application in question was in the nature of an interlocutory application. While the Family Court, therefore rejected such application, the Court had passed interlocutory order. Under sub-section (1) of Section 19 of the Family Courts Act, 1984, Appeal

against the Judgment and order of the Family Court would be available to an aggrieved party but not against the interlocutory order. In that view of the matter, we find that this Appeal is not maintainable.

4. The Appeal is therefore dismissed only on that ground. This would not prevent the Appellant from pursuing appropriate remedy as may be available in law.

5. In view of disposal of the Appeal, Civil Application does not survive and the same is also disposed of.

(SARANG V. KOTWAL, J.)

(AKIL KURESHI, J.)