

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

CIVIL REVISION APPLICATION NO.152 OF 2017

Marilyn Zachary D'souza .. Applicant

V/s.

Zachary Paul D'souza .. Respondent

Ms.R.C.Nichani for the applicant

Ms.Nikita Bhavsar I/b Mr.N.P.Bhavsar for the respondent

**CORAM: K.K. TATED, J
DATED : FEBRUARY 21, 2019**

P.C. :

1 Heard.

2 By this Civil Revision Application, Applicant original Respondent is challenging the order dated 25.11.2016 passed by Bombay City Civil Court, Mumbai below Exhibit-11 in Guardian Petition No.22 of 2015 rejecting their Application under Order VII Rule 11 of the Code of Civil Procedure, 1908 for rejection of the Guardian Petition on the ground of Jurisdiction.

3 During the course of argument, the learned counsel for the Petitioner submits that the Guardian Petition No.22 of 2015 is shown on board before the Trial Court for final

hearing. She further submits that at the time of passing order dated 25.11.2016, Trial Court has not considered properly the judgments of this court in the matter of Vimlashram Gharkul of Amprapali Utkarsha Sangh, Nagpur vs. Jyoti Banson Joseph in Civil Revision Application No.633 of 2002 dated 28.03.2006 (Coram: D.D.Sinha, J.)

4 The learned counsel for the Petitioner submits that if Guardian Petition is decided within time bound period, in that case, she received instruction not to press the present Civil Revision Application with liberty to raise all the issues before the Trial Court including the jurisdiction of the court. To that effect, Advocate on record for Petitioner has given in writing. Same is taken on record and marked 'X' for identification. Same is accepted.

5 Hence, following order is passed:

- a. Civil Revision Application No.152 of 2017 stands disposed of as withdrawn.
- b. Hearing of Guardian Petition No.22 of 2015 pending before the Bombay City Civil Court, Mumbai is expedited.
- c. This court expects Trial Court to decide Guardian Petition No.22 of 2015 as early as possible, but in any case, on or before 31.07.2019.

d. All contentions of both the parties are kept open including Jurisdiction of the court to decide the Guardian Petition.

e. No order as to costs.

(K.K. TATED, J.)