

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FAMILY COURT APPEAL (STAMP) NO.5534 OF 2019
ALONG WITH
CIVIL APPLICATION (STAMP) NO.5536 OF 2019
IN
FAMILY COURT APPEAL (STAMP) NO.5534 OF 2019

Mr. Purushottam Kashyap.] ... Appellant /
Applicant

Versus

Mrs. Megha Kashyap.] ... Respondent

Ms. Rathod a/w Mr. S. R. Nargolkar & Ms. Sherrie Rebello for
Appellant / Applicant.

**CORAM :- INDRAJIT MAHANTY &
SARANG V. KOTWAL, JJ.**
DATE :- 01 MARCH, 2019

P. C. :-

1. Heard learned Counsel for the Appellant / Applicant.
2. It appears that M. J. Petition No.3196 of 2018 was filed before the Family Court at Bandra, Mumbai, with a prayer seeking waiver of the statutory period under Section 13B(2) of the Hindu Marriage Act, 1955. This application came to be rejected by an order

dated 01/02/2019, *inter alia*, with a finding that the record showed that the parties had carried out amendments from time to time, and that the parties were not firm on their stand.

2. Insofar as this finding is concerned, we are of the considered view that since the amendments were carried out bringing in certain facts which the parties were of the considered view, important for the consideration of the learned Judge of the Family Court and such amendments had been allowed, the said amendments could not form the foundation for denying consideration of the petition filed by them on its own merits.

3. It is further submitted by the learned Counsel for the Appellant / Applicant that the parties had met with the Marriage Counsellor on and on 01/02/2019 when the case was taken up by the learned Judge of the Family Court, the report was available on record of the proceedings, but the same was not taken into consideration.

4. Considering the aforesaid facts and in the interest of both parties who are present in Court in support of their prayer, we set

aside the order dated 01/02/2019 passed in M. J. Petition No.3196 of 2018 and remand the matter back to the Judge, Family Court, Bandra, Mumbai, to reconsider the application afresh without in any manner being influenced by the earlier rejection thereof (which we have quashed vide our order.) We further direct the learned Judge of the Family Court to take into consideration the report of the Marriage Counsellor and to take up the matter afresh and dispose of the same expeditiously by considering the judgments cited by the parties in their application.

5. The Family Court Appeal is disposed of in terms of the aforesaid directions.

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

(SARANG V. KOTWAL, J.)

(INDRAJIT MAHANTY, J.)