

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.196/2015
in
Family Court Appeal No.27/2019

Mrs. Madhuri Balasaheb Deore Applicant

Vs.

Mr. Balasaheb Gambhirrao Deore Respondent

Mr. Lakshyaved R. Ohekar for the Applicant
Ms. Divya Parab i/b. Rmeshwar N. Gite for the Respondent

**CORAM: K.K.TATED &
SARANG V. KOTWAL,JJ.**

DATED : NOVEMBER 28, 2019

P.C.

1 Heard. Both the counsel submit that the matter was referred for mediation, which is failed.

2 By this Civil Application, the Applicant is seeking stay to the operation and implementation of the judgment and decree dated 19.12.2014 passed by the Learned Family Court, Nasik in Petition No.A-227/2011 and Petition No.A-20/2012 and an order of injunction restraining the Respondent to enter into any matrimonial relations / marrying with any other women.

3 The learned counsel for the Applicant submits that the Respondent husband has filed Petition No.A-227/2011

u/s.13(1)(ia)(ib) of the Hindu Marriage Act, 1955 for dissolution of marriage and the Applicant wife has filed Petition No.A-20/2012 u/s.9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights. The learned counsel for the Applicant submits that the Trial Court has allowed the Respondent's petition and granted divorce. He submits that the Family Court Appeal has already been admitted by this court. He submits that, if pending the hearing and final disposal of the Family Court Appeal, the Respondent remarries, then nothing will survive in the present proceedings. Hence, the Civil Application.

4 The learned counsel for the Respondent has vehemently opposed the Civil Application. He submits that the Family Court, after considering the evidence on record, held that the Respondent is entitled to the divorce u/s.13(1) (ia) (ib) of the Hindu Marriage Act, 1955. Therefore, there is no question of granting any stay.

5 It is to be noted that in the present proceeding the decree for divorce is already granted by the Family Court and if during the pendency of the Family Court Appeal, the Respondent remarries, then nothing will survive in the present proceedings.

6 Considering these facts and considering the submissions made by the learned counsel for the Applicant, following order is passed:

- a. Pending the hearing and final disposal of the First Appeal, the operation and implementation of the

judgment and decree dated 19.12.2014 passed by the Family Court, Nasik in Petition No.A-227/2011 is stayed.

b. The Civil Application stands disposed of accordingly.

c. No order as to costs.

(SARANG V. KOTWAL, J.)

(K.K.TATED, J.)