

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

**CIVIL APPLICATION NO.36 OF 2019
IN
FAMILY COURT APPEAL NO.67 OF 2019**

Sandeep Anandrao Ingale Applicant

versus

Jayashri Sandeep Ingale Respondent

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- Mr.Amey Tamhane i/b. Ms.Seema Sarnaik, Advocate for Applicant.
- Mr.Hitesh P. Vyas, Advocate for Respondent.

**CORAM : K. K. TATED &
SARANG V. KOTWAL, JJ.
DATE : 24th JANUARY, 2020.**

P.C. :

1. Heard learned Counsel for the parties.
2. By this Civil Application, the Applicant is seeking stay of Clause No.3 of operative order of the impugned judgment and decree dated 11/12/2018 passed by the Family Court, Pune in PA. No.921/2013.

3. Learned Counsel for Applicant submits that Family Court dismissed Petitioner/Husband's Petition for divorce and allowed the counter claim by the Respondent/wife filed u/s 9 of the Hindu Marriage Act, 1955. He submitted that the trial Court directed the Applicant to resume cohabitation with Respondent/wife within two months from the date of order. Hence he preferred the present Civil Application. He submitted that pending hearing and final disposal of the Family Court Appeal, this Court be pleased to stay the operation and implementation of clause 3 of the impugned decree dated 11/12/2018 passed by the Family Court. He submitted that if stay is not granted, irreparable loss would be caused to the Applicant.

4. On the other hand, learned Counsel for Respondent/wife vehemently opposed the present Civil Application. He submitted that the Applicant has not made out any case for allowing this Civil Application. Hence this Civil Application is required to be dismissed with costs.

5. We have heard both the learned Counsel at length.

6. It is to be noted that in the present proceedings, the Court dismissed the Applicant's Petition for divorce and allowed the Respondent's counter claim and directed the Applicant to cohabitation with Respondent/wife within two months from the date of order. Family Court Appeal is already admitted by this Court vide order dated 13/12/2019.

7. In view of this fact, we are satisfied that the Applicant has made out case for allowing this civil application. But at the same time he is required to clear the cost of Rs.5,000/- the litigation charges payable to the Respondent. Learned Counsel for the Applicant submitted that if the said amount is not paid, they will make the payment to the Respondent within four weeks from today. Hence following order is passed;

- (a) Operation and implementation of clause 3 of the impugned judgment and decree dated 11/12/2018 passed by the Family Court, in P.A. No.921/2013 is stayed till the hearing and disposal of the Family Court Appeal.

Clause No.3 reads thus;

“The petitioner is directed to resume cohabitation with the respondent-wife within two months.”

- (b) The Applicant to pay a sum of Rs.5,000/- as litigation expenses to the Respondent, if it is not paid within four weeks from today, failing which the civil application shall stand dismissed without referring back to the Court.
- (c) If amount is paid, Applicant is directed to place on record receipt to that effect within four weeks from today.
- (d) Civil Application is disposed of accordingly.

(SARANG V. KOTWAL, J.)

(K.K.TATED, J.)