

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 150 OF 2019
IN
FAMILY COURT APPEAL NO. 121 OF 2019

Anita Jain D/o Jawanmalji Jain ... Applicant
V/s.

Bharatkumar Chouhan s/o Devichand
Chouhan ... Respondent

Mr. Prashant More for the Applicant.
Mrs. Ketaki Datar for the Respondent.

**CORAM: K.K.TATED, &
SARANG V. KOTWAL JJ.**
DATE : 4th MARCH 2020

P.C.

1 Heard learned Counsel for the parties.

2 By this Civil Application, the Applicant wife is seeking stay of operation and implementation of the impugned judgment and decree dated 26.12.2018 passed by the Family Court, Mumbai at Bandra in Petition No. A-1822 of 2012 allowing Respondent's husband's petition for divorce under Section 13(1)(ia) of the Hindu Marriage Act, 1955 and also granting permanent custody of daughter Bhoomi to the Respondent.

3 During the course of argument, the learned Counsel for the Applicant submits that at present he is seeking stay of the clause No.2 of the impugned judgment and decree. He submits that if the Respondent

remarry during the pendency of the appeal, then nothing will survive in the present proceeding. Hence, this Hon'ble Court be pleased to allow the present application.

4 On the other hand, the learned Counsel for the Respondent made a statement that they have no objection if the stay is granted to the clause No.2 of the impugned judgment and decree passed by the Trial Court.

5 Hence, the following order is passed:

a) Operation and implementation of the clause No.2 of the impugned judgment and decree dated 26.12.2018 passed by the Family Court, Mumbai at Bandra in petition No. A-1822 of 2012 is stayed till the hearing and final disposal of the present Family Court appeal. Clause No.2, reads thus:

"2. The marriage between Petitioner and Respondent solemnized on 4th February 1999 is hereby dissolved under Section 13(1)(ia) of the Hindu Marriage Act, 1955."

b) Civil Application is disposed of accordingly.

(SARANG V. KOTWAL, J.)

(K.K.TATED, J.)