

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.3815 OF 2020**

**IN**

**FAMILY COURT APPEAL NO.50 OF 2020**

**SOU. SMITA SHIVPRASAD MALI )...APPLICANT**

**V/s.**

**SHRI. SHIVPRASAD TANAJI MALI )...RESPONDENT**

Miss Rati Sinhasane i/b. Mr.Umesh Mankapure, Advocate for the Applicant.

Mr.Nagesh Chavan, Advocate for the Respondent.

**CORAM : R. D. DHANUKA &  
V. G. BISHT, JJ.**

**DATE : 18<sup>th</sup> MARCH 2021**

**P.C. :**

1 The applicant in this interim application in family court appeal seeks stay of the order passed by the Family Court granting Decree of Divorce in favour of the respondent under Section 13(1)(ib) of the Hindu Marriage Act, 1955.

2 The learned counsel for the respondent opposes this application for stay of the impugned decree only on the ground that the respondent has already remarried on 3<sup>rd</sup> January 2021. According to the respondent, the Family Court had granted stay of the said decree on its own till 31<sup>st</sup> December 2020. This stay was not continued by the Family Court or by this court in this Family Court Appeal. The learned counsel for the respondent submits that the order dated 20<sup>th</sup> March 2020, 26<sup>th</sup> March 2020, 15<sup>th</sup> April 2020 and all subsequent orders granting stay would not apply to the facts of this case in view of the fact that by those orders, this court had extended only the interim orders which were in force prior to 20<sup>th</sup> March 2020 in view of the pandemic situation.

3 The learned counsel for the applicant on the other hand strongly contended that all these orders would continue and more particularly order dated 9<sup>th</sup> December 2020 which continues the interim order till 31<sup>st</sup> January 2021 would also apply to the facts of this case. She submits that as the second marriage was performed by the respondent during the pendency

of the interim stay by virtue of the order dated 9<sup>th</sup> December 2020, the second marriage performed by the respondent is illegal.

4 We are not inclined to accept the submission of the learned counsel for the respondent that the orders passed by this Court from time to time commencing from 20<sup>th</sup> March 2020 and the last order dated 9<sup>th</sup> December 2020 would not continue the stay granted by the Family Court. In our prima facie view, the second marriage performed by the respondent on 3<sup>rd</sup> January 2021 is illegal.

5 We, accordingly, pass the following order :

**ORDER**

- i) Interim Application No.3815 of 2020 is made absolute in terms of Prayer Clause (a).
- ii) Interim application stands disposed off in above terms.
- iii) No orders as to costs.

**(V. G. BISHT, J.)**

**(R.D.DHANUKA, J.)**