

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
FAMILY COURT APPEAL NO.36 OF 2021**

Uday Padmakar Sirsat

....Appellant

V/s.

Rupali Uday Sirsat

...Respondent

WITH  
INTERIM APPLICATION NO.10384 OF 2022  
WITH  
INTERIM APPLICATION NO.1878 OF 2022  
WITH  
INTERIM APPLICATION NO.2027 OF 2021  
IN  
FAMILY COURT APPEAL NO.36 OF 2021  
WITH  
FAMILY COURT APPEAL NO.68 OF 2021

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Mr. Anul Tiwari for Appellant

Ms Maheshwari Dave a/w Ms Gauri Gavande for Respondent

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**CORAM : K.R. SHRIRAM &  
MILIND N. JADHAV JJ  
DATED : 13<sup>th</sup> JULY 2022**

**P.C. :**

1 Mr. Tiwari stated that there are two appeals filed by appellant-husband, one of which is against the Family Court's order rejecting his petition for restitution of conjugal rights and the other is for granting decree of divorce to respondent on the grounds of cruelty. Mr. Tiwari states that appellant is very clear that he does not want restitution of conjugal rights and he is making this statement on instructions. Therefore, Family Court Appeal No.68 of 2021 is dismissed.

2 That leaves the other appeal, which is Family Court Appeal No.36 of

2021. Mr. Tiwari stated that appellant denies all the allegations made against appellant in the petition that was filed, the evidence that was led and findings of the court. Mr. Tiwari stated that the findings of the court that appellant was cruel to respondent and, therefore, respondent was entitled to a decree of divorce, is uncalled for and incorrect and a stigma against appellant and that is why the appeal has been filed. Ms. Dave for respondent informed the court, without prejudice to respondent's rights and contentions, that respondent is ready and willing to put an end to the matter by agreeing to convert the decree of divorce granted by the Family Court of cruelty to a decree of divorce by mutual consent and respondent is ready and willing to mention in the consent terms that respondent will withdraw all the allegations made. Mr. Tiwari stated that this is the same suggestion the court had also made on the previous occasion but appellant does not want to settle. We informed Mr. Tiwari what appellant would achieve even if he succeeds in the appeal is that the decree of divorce will be set aside, which would mean appellant and respondent will be husband and wife and have to live together as such, which any way appellant does not want. We suggested to Mr. Tiwari that instead of risking an order whereby, we may not admit the appeal by which the stigma will remain and conversely, if he succeeds, he will remain wedded to respondent, which he does not want, why should he not accept the without prejudice offer of respondent recorded above, particularly when respondent is agreeable to withdraw the allegations to put an end to the issue.

Mr. Tiwari stated he is bound by instructions but since it has once again fallen from the court, he would discuss the issue with the arguing counsel, who comes from Nashik and due to heavy rains today has not been able to reach.

3 Stand over to 3<sup>rd</sup> August 2022 for admission.

(MILIND N. JADHAV, J.)

(K.R. SHRIRAM, J.)