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

**INTERIM APPLICATION NO.2143 OF 2020
IN
FAMILY COURT APPEAL NO.141 OF 2017**

Mukesh Omprakash Mishra .. Appellant/Applicant

Versus

Anushri Mukesh Mishra .. Respondent

***Mr.Sagar Patil i/b Shashank Dubey, Advocates for the
Appellant/Applicant.***

**CORAM : B. P. COLABAWALLA &
M.M. SATHAYE, JJ.**

DATE : SEPTEMBER 29, 2023

P. C.

1. The above Interim Application is filed to restore the above Family Court Appeal.

2. The learned counsel appearing on behalf of the Applicant/Original Appellant brought to our attention the order dated

4th April, 2018 by which the above Family Court Appeal was admitted and the Appellant was directed to file a private paper book within 1 year from the said date. Thereafter, the matter had come up on 23rd January, 2019 when the Appellant had filed an Civil Application seeking to lead additional evidence. This Court passed an order on 23rd January, 2019 *inter alia* recording that the said Civil Application for leading additional evidence shall be considered at the time of final hearing. Thereafter the matter had come up on 22nd July, 2019. At that time this Court noted that the learned advocate for the Appellant sought to tender an Application duly signed by the parties seeking a divorce by mutual consent.

3. After this order, no order has been passed by this Court. There is no order recording that the Appellant has withdrawn the above Appeal. What has been recorded in the order dated 22nd July, 2019 is that the Appellant is at liberty to withdraw the above Family Court Appeal. At least from the record we do not find the Family Court Appeal was thereafter withdrawn. Despite this, in the case status the above Family Court Appeal is shown as disposed of.

4. We have heard the learned counsel appearing on behalf of the Applicant/Original Appellant. The Respondent wife has chosen not to appear in the above Interim Application even though she has been duly served and affidavit of service is also filed.

5. Having heard the learned counsel appearing on behalf of the Appellant and considering the facts narrated earlier, we are of the view that the above Interim Application ought to be allowed and is allowed in terms of prayer clause (a) which reads thus:-

"(a) The Hon'ble Court be pleased to restore the Appeal No.141 of 2017 to file pursuant to the order dated 22.07.2019 being Exhibit "F"."

6. The above Interim Application is disposed of in the aforesaid terms. However, there shall be no order as to costs.

7. Considering that the above Family Court Appeal has now been restored, the Registry is directed to issue notice to the Respondent-Wife informing her that the above Appeal is restored and will be prosecuted on merits. The returnable date of the aforesaid notice shall be 27th October, 2013.

8. Stand over to 27th October, 2023 "for hearing and final disposal".

9. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[M.M. SATHAYE, J.]

[B. P. COLABAWALLA, J.]