



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

FAMILY COURT APPEAL NO. 1 OF 2023
WITH
CIVIL APPLICATION NO. 66 OF 2023 IN FCA/1/2023

SANJAY RAJU GARAD
VERSUS
MIRA SANJAY GARAD

...
Advocate for Appellant : Mr. Rajendra L. Kute
Advocate for Respondent : Mr. S. K. Adkine
...

**CORAM : S. G. MEHARE &
SHAILESH P. BRAHME, JJ.**

DATE : 12-11-2024

PER COURT:-

1. Heard finally, with the consent of the parties, at the admission stage.
2. The appellant has filed divorce petition under Section 13(i-a) (i-b) of the Hindu Marriage Act, 1955. However, during pendency of petition, orders of interim maintenance *pendente lite* were passed. Thereafter, the petitioner - husband learnt that the respondent/wife had suppressed the fact that prior to their marriage, she was married. Hence, application below Exhibit-21 for leave to withdraw the petition with liberty to file new petition under Section 11 of the Hindu Marriage Act was filed.

3. After hearing the learned counsel for the petitioner - husband, the learned Judge, Family Court, Parbhani allowed his prayer below Exhibit-21. However, the petitioner - husband has a serious objection as regards costs of Rs.20,000/- (Rs. Twenty Thousand). It could not have been imposed as he did not ask to withdraw the order of maintenance *pendent lite*.

4. The learned counsel for the respondent submits the respondent had persuaded the trial and engaged a lawyer. Hence, costs was correctly imposed.

5. The another contention of the petitioner is that since the application was withdrawn, it could not have been dismissed.

6. In reply, the learned counsel for the respondent - wife submits that since nothing remained, the petition has been correctly dismissed.

7. Perused the impugned order.

8. There appears a substance in the submissions of the learned counsel for the petitioner that leave was sought to withdraw the petition with liberty to file a new petition under Section 11 of the Hindu Marriage Act.

9. Since that prayer was allowed, so, naturally main petition must have been decided and it has been correctly dismissed. However, there were no reasons for imposing such a heavy costs of Rs.20,000/- (Rs. Twenty Thousand). Imposing such heavy costs is unjustifiable without any explanation. Therefore, the Appeal deserves to be partly allowed. Hence, the order:-

ORDER

- i) The Family Court Appeal is partly allowed.
- ii) The impugned orders passed by Judge, Family Court, Parbhani, below application Exhibit - 14 dated 17.10.2022 and Exhibit - 21 dated 21.11.2022 in P.A.No.270 of 2021, are partly quashed and set aside to the extent imposing costs of Rs.20,000/- (Rs. Twenty Thousand) to the respondent - wife.
- iii) Pending civil application stands disposed of.
- iv) No order as to the costs.

**[SHAILESH P. BRAHME]
JUDGE**

**[S. G. MEHARE]
JUDGE**