

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FAMILY COURT APPEAL(L)NO.13233 OF 2023

WITH

INTERIM APPLICATION NO.16825 OF 2023

IN

FAMILY COURT APPEAL(L)NO.13233 OF 2023

WITH

INTERIM APPLICATION NO.1423 OF 2024

IN

FAMILY COURT APPEAL(L)NO.13233 OF 2023

ANJALI
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ASWALE

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Date: 2024.03.18
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Mrs Nandini P. Janrao

..Appellant/Applicant

Versus

Mr.Pandurang D. Janrao

..Respondent

Mr.Ranjeet M. Pawar, with Mr.Saurabh Desai,
Advocates for the Appellant.

Mr.Nikhil Wadikar i/b Nandu Pawar, Advocates for
the Respondent.

CORAM : B. P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.
DATE : MARCH 15, 2024

P.C.

Family Court Appeal (L) No.13233 of 2023 not on
Board. With the consent of parties, taken on Board.

2 The above Family Court Appeal has been filed
challenging the order dated 7th March, 2022 passed by the learned
Family Court at Satara dissolving the marriage between the

Appellant and the Respondent. This order was passed ex-parte. The learned advocate appearing on behalf of the Appellant-wife submitted that the order deserves to be set aside because the Appellant was never served with the proceedings in the Family Court. He submitted that the Bailiffs report which is relied upon to substantiate service, itself is faulty because the service seems to be effected at the work place of the Respondent-wife in the year 2021 when she had quit that job as far back as in the year 2019.

3 He submitted that since this is the case, rather than prosecuting the above Appeal, he would file the application under Order IX Rule 13 of the Code of Civil Procedure, 1908 to recall the ex-parte order before the Family Court. He also submitted that since the husband has already re-married, his challenge to recall the impugned order will only be to the extent that no maintenance was granted to the Appellant-wife.

4 In view of the statement made by the advocate for the Appellant, on instructions of the Appellant who is present in Court, the above Appeal is disposed of as withdrawn with liberty to the Appellant to approach the learned Family Court at Satara under Order IX Rule 13 of the CPC for setting aside the ex-parte

order. If such an application is filed, the learned Family Court, Satara, shall decide the said application on its own merits and in accordance with law. If there is any delay in filing the said application, the same shall be considered sympathetically by the said Court, especially considering the time taken to prosecute the above Appeal. The above Appeal is accordingly disposed of. No order as to costs.

5 In view of the disposal of the above Family Court Appeal, nothing survives in the above Interim Applications and the same are disposed of accordingly.

6 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.

[SOMASEKHAR SUNDARESAN, J.] [B. P. COLABAWALLA, J.]