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

FAMILY COURT APPEAL NO.33 OF 2023

Mrs.Kaveri w/o Kunal Rao

.. Appellant

Versus

Kunal s/o Purushottam Rao

.. Respondent

WITH

INTERIM APPLICATION NO.331 OF 2024

IN

FAMILY COURT APPEAL NO.33 OF 2023

Mrs.Kaveri w/o Kunal Rao

.. Applicant

Versus

Kunal s/o Purushottam Rao

.. Respondent

Mr.Pravin Waghmare, Advocate for the Appellant/Applicant-Wife.

Ms.Ashwini Achari, Advocate for Respondent-Husband.

Mrs.Kaveri Kunal Rao, Appellant-Wife is present in Court.

Mr.Kunal Rao, Respondent-Husband is present in Court.

**CORAM: B. P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.**

DATE : JANUARY 25, 2024

P. C.

1. The above Family Court Appeal is filed by the Appellant-Wife challenging the decree passed by the Family Court granting restitution of conjugal rights to the Respondent-Husband.

2. When this matter had come up before the Court on 8th September, 2023 we had recorded that without prejudice to the rights and contentions of the parties, in principle agreement was arrived at that the Appellant-Wife is willing to cohabit with the Respondent-Husband and both the parties are willing to withdraw allegations against each other. This was subject to the condition that the Respondent-Husband gets a separate dwelling unit where he, along with the Appellant-Wife, will cohabit separate from the Husband's parents. Apparently this has not fructified into anything fruitful. It appears that they lived together only for a couple of days and thereafter again have separated and are not residing together. In fact, the Husband has now filed a Petition for divorce before the Family Court at Nashik.

3. Once this is the case, it is clear that the Husband has given up his claim for restitution of conjugal rights. Accordingly the impugned order in the above Appeal is hereby set aside.

4. We may clarify that we have not opined on the merits of the matter one way or the other and this order shall not in any way prejudice either party in the divorce proceedings initiated by the Husband against the Wife.

5. The above Family Court Appeal is disposed of in the aforesaid terms. However, there shall be no order as to costs.

6. In view of disposal of the Appeal nothing survives in the above Interim Application and the same is disposed of accordingly.

7. 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.]