

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FAMILY COURT APPEAL NO. 186 OF 2019
WITH
INTERIM APPLICATION NO. 951 OF 2019
IN
FAMILY COURT APPEAL NO. 186 OF 2019

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Omkar G. Palav

.. Appellant

Versus

Rashmi O. Palav

.. Respondent

Adv. Gopalkrishna R. Hegde *for the Appellant/husband.*

Adv. Shalaka Satam *for the Respondent/wife.*

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

DATE : FEBRUARY 09, 2024

P. C.

1. The above Appeal has been filed by the Appellant/husband challenging the order dated 20th August, 2019. By the impugned order, the Petition of the Respondent/wife filed under Section 9 of the Hindu Marriage Act, 1955 [seeking restitution of conjugal rights] was allowed and the Counter Claim filed by the Appellant/husband seeking a divorce on the ground of cruelty was dismissed.

2. The learned Advocates appearing for the Appellant/husband as well as the Respondent/wife have stated that after the impugned order was passed, the parties approached the Family Court to obtain a divorce by mutual consent under Section 13(B) of the Hindu Marriage Act, 1955 and the divorce by mutual consent has also been granted by the Family Court on 27th October, 2023. They therefore both submitted that the impugned order now cannot survive, and therefore, ought to be set aside.

3. Considering the facts and circumstances narrated to us by the Advocates for both parties, in so far as impugned order allows the Petition for restitution of conjugal rights, the same is hereby set aside.

4. As far as the issue of divorce is concerned that has already been granted by the Family Court vide its order dated 27th October, 2023.

5. The Appeal is disposed of in the aforesaid terms. No order as to costs.

6. In view of disposal of the above 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.]