

SUPREME COURT OF INDIA

Vishnu Babu Tambe

Vs.

Apurva Vishnu Tambe

C.A.No.11578-79 of 2016

(Kurian Joseph and R.F.Nariman,JJ.,)

02.12.2016

JUDGMENT

Kurian Joseph,J.,

SLP(Civil)No.15440-15441of 2016

1. Leave granted.
2. The appellant is aggrieved by the interim order dated 23.03.2016 in Civil Application No. 355 of 2013 with Civil Application No. 106 of 2015 in Family Court Appeal No. 241 of 2013.
3. It is not in dispute that the appeal, as such, is pending before the High Court. The appeal is filed by the respondent herein against the Judgment and decree dated 30.09.2013 passed by the Family Court, Bandra, Mumbai, dissolving the marriage between the appellant and the respondent.
4. While hearing the interlocutory applications, the High Court took note of the submission made by the appellant that the Court should take note of the subsequent marriage performed by the appellant after the decree of dissolution of marriage and pass appropriate orders. While considering the applications at the interlocutory stage, the High Court has granted a declaration that the second marriage performed by the appellant on 02.01.2014 is completely illegal.
5. Having heard the learned counsel on both the sides, we are of the view that the High Court should have refrained from passing a final order on the issue at the interlocutory stage. All available contentions are to be raised by the parties at the stage of final disposal of the appeal.
6. Therefore, we dispose of these appeals with a request to the High Court to dispose of the Family Court Appeal No. 241 of 2013 expeditiously, without being influenced by any of the

observations and findings recorded by the High Court in the impugned order as also by this Court, since those observations and findings are only to be taken as a prima facie view of the Court, for an order passed at an interlocutory stage.

7. In that view of the matter, the declaration regarding illegality of the second marriage is vacated.

8. We make it clear that all available contentions are left open to the parties, to be raised at the time of final disposal of the appeal before the High Court.

9. No costs.