

Salgaonkar

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY****CIVIL APPELLATE JURISDICTION****FAMILY COURT APPEAL NO.13 OF 2017****WITH****INTERIM APPLICATION (ST) NO.4267 OF 2026**

Kapil Prakash Shah .. Appellant

**Versus**

Keya Kapil Shah .. Respondent

...

Ms.Khyati Shah with Mr.Vatsal Parmar for the Applicant/Appellant.

Ms.Tauban F. Irani with Ms.Divya Sharma for the Respondent.

**CORAM: BHARATI DANGRE &  
MANJUSHA DESHPANDE, JJ.**

**DATE : 27<sup>th</sup> MARCH, 2026**

...

**P.C:-**

1. Interim Application (St) No.4267 of 2026 is taken out by the Applicant-husband, in the pending Family Court Appeal No.13 of 2017 raising a challenge to the impugned Judgment dated 01/10/2016 passed by the Family Court, Mumbai at Bandra, dismissing the petition filed by him for dissolution of marriage on the ground of cruelty and desertion and also granting access to the daughter.

2. By the Interim Application, the Applicant seeks the following reliefs :-

“(a) Be pleased to dissolve the marriage between the Applicant and the Respondent in light of irretrievable breakdown of marriage since there is long separation of 19 years between the Applicant and the Respondent.

(b) Be pleased to set aside the Decree dated 01/10/2016 passed by 3<sup>rd</sup> Family Court, Bandra on the grounds of irretrievable breakdown of marriage.”

3. It is pertinent to note that the impugned Judgment, which is the subject-matter of the Appeal, refused the relief in favour of the husband seeking dissolution of marriage and while dismissing the petition, the husband was directed to resume cohabitation with the wife within two months from the date of the order.

This order, being passed on 01/10/2016, is not implemented and there has been no cohabitation between the parties and this is the very specific reason, that the application is filed by the husband by way of Interim Application for dissolving the marriage on the ground of irretrievable breakdown.

Though we cannot give such a declaration outrightly, we permit the Appellant to amend the Appeal Memo and implead this ground as one of the grounds for divorce and also consequentially amend the prayer clauses of the Appeal for grant of such relief.

Similarly the Appellant is also at liberty to place on record the latest statement of assets and liabilities, if at all the issue of permanent alimony is decided by the Court.

4. We permit the necessary amendment to be carried out within two weeks from today. Upon the amendment being carried out, learned counsel Ms.Irani representing the

Respondent, is at liberty to file her response within a further period of two weeks.

5. Interim Application stands disposed of.
6. List the Family Court Appeal on **07/05/2026**.

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGRE, J.)