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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 06.08.2026

CNR No. DLHC010300962026

+ CM(M) 1476/2026, CM APPL. 44042/2026 (Stay), CM APPL. 44043/2026 (Seeking permission to file lengthy list of dates & synopsis), CM APPL. 44044/2026 (Ex.), CM APPL. 44045/2026 (Ex. From filing certified copy of the impugned order dt. 25.03.2026)

KAPIL KABRA

.....Petitioner

Through: Mr. Apoorv Kurup, Sr. Adv.
with Mr. Dhruv Sharma, Mr.
Ritwik Mohapatra, Mr. Vardaan
Wanchoo, Ms. Priya Patel, Mr.
Gurjas Narula, Mr. Aayush
Mishra & Mr. Divyansh Nigam,
Advs.

versus

MEENAKSHI KABRA

.....Respondent

Through: Mr. Sarojanand Jha, Mr. Suraj
Malik, Ms. Rajreeta Ghosh, Mr.
Rahul Kumar & Ms. Muskan
Saxena, Advs. Along with
Respondent in person.

CORAM:

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

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JUDGEMENT (Oral)

1. The present Petition, filed under Article 227 of the
Constitution of India, 1950¹, assails the **Order dated 25.03.2026²**

¹ Constitution

² Impugned Order



passed by the **learned Judge, Family Court-01, South-West District, Dwarka, New Delhi³** in CS No. 38/2025 titled “*Meenakshi Kabra v. Kapil Kabra*”.

2. The Impugned Order has been passed on an Application preferred by the Respondent under Order XXXIX Rules 1 and 2 read with Section 151 of the **Code of Civil Procedure, 1908⁴**, whereby the learned Family Court has granted an *ad-interim* anti-suit injunction restraining the Petitioner from proceeding further with the divorce proceedings instituted by him before the **Superior Court of New Jersey, Chancery Division-Family Part, Somerset County, United States of America⁵**, till the final adjudication of the suit pending before the learned Family Court.

3. With the consent of the learned counsel appearing for the parties, the present matter is taken up for final disposal.

4. Before this Court could enter into the merits of the controversy, learned counsel appearing on behalf of the Respondent has raised a preliminary objection with regard to the maintainability of the present Petition on the ground that the Impugned Order is not an Interlocutory Order within the meaning of Section 19 of the **Family Courts Act, 1984⁶** and therefore, the statutory remedy available to the Petitioner is by way of an Appeal under Section 19(1) of the FC Act and thus, the supervisory jurisdiction of this Court under Article 227 of the Constitution ought not to be invoked.

5. Since the objection pertains to the maintainability of the present Petition and goes to the root of the matter, the same deserves

³ learned Family Court

⁴ CPC

⁵ American Court

⁶ FC Act



consideration at the threshold.

SUBMISSIONS ON BEHALF OF THE PARTIES:

6. Learned counsel appearing on behalf of the Respondent submits that the present Petition is not maintainable in view of the statutory remedy of Appeal provided under Section 19 of the FC Act.

7. Learned counsel for the Respondent submits that the Impugned Order cannot be characterised as an interlocutory order merely because it has been passed at an interim stage of the proceedings. He submits that the true test is not the stage at which the order has been passed but the nature, effect and consequences of the order on the rights of the parties.

8. Elaborating the aforesaid submission, learned counsel for the Respondent contends that the interim injunction granted by the learned Family Court restrains the Petitioner from prosecuting the matrimonial proceedings instituted by him before the competent American Court, during the pendency of the proceedings before the learned Family Court. Such an injunction, it is submitted, substantially affects valuable rights of the parties and is therefore not merely procedural in nature.

9. Learned counsel for the Respondent further submits that the suit before the learned Family Court itself has been instituted under Section 7 of the FC Act seeking, *inter alia*, a permanent injunction against continuation of the foreign matrimonial proceedings. Consequently, the interim injunction granted by the learned Family Court is intrinsically connected with the principal relief claimed in the suit and is not a routine procedural order passed only to regulate the conduct of the proceedings.



10. In support of the aforesaid contention, learned counsel places reliance upon the Full Bench decision of this Court in ***Dr. Geetanjali Aggarwal v. Dr. Manoj Aggarwal***⁷, particularly Paragraph Nos. 30 to 34 thereof, to contend that while determining whether an order is interlocutory within the meaning of Section 19 of the FC Act, the Court must examine the true nature and effect of the order rather than the nomenclature assigned to it.

11. It is submitted that the learned Full Bench has categorically held that an order which decides or materially affects valuable rights of the parties, or possesses the trappings of finality, would not fall within the expression “*interlocutory order*” merely because it has been passed during the pendency of the proceedings. Reliance is also placed upon the observations of the Hon’ble Supreme Court in ***Shah Babulal Khimji v. Jayaben D. Kania***⁸, which have been noticed and applied by the learned Full Bench while explaining the distinction between purely procedural orders and those having substantive civil consequences.

12. Learned counsel for the Respondent therefore submits that, adjudged on the aforesaid principles, the Impugned Order is clearly appealable under Section 19(1) of the Act and, consequently, the present Petition under Article 227 of the Constitution is not maintainable.

13. ***Per contra***, learned senior counsel appearing on behalf of the Petitioner submits that the Impugned Order is purely interlocutory in nature and does not finally determine any substantive right of either party.

14. Learned senior counsel for the Petitioner further submits that

⁷ 2024 SCC OnLine Del 7220

⁸ (1981) 4 SCC 8



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the interim injunction granted by the learned Family Court is merely intended to preserve the existing position, *i.e.*, to maintain a *status quo*, till the suit is finally adjudicated and, therefore, lacks the degree of finality contemplated under Section 19(1) of the FC Act.

15. It is submitted that the interim protection neither concludes the matrimonial disputes between the parties nor finally adjudicates the legality of the foreign proceedings. The rights of the parties, it is contended, remain open for adjudication during the trial and the Impugned Order is liable to merge with the final judgment that may ultimately be rendered by the learned Family Court.

16. Learned senior counsel places reliance upon the decision of the High Court of Jharkhand in *Mukund Murari Mahto v. Karishma Singh @ Kumari Mubi*⁹, particularly Paragraph Nos. 25 to 29 thereof, wherein it was held that an order which is purely interlocutory in nature would not be appealable under Section 19 of the FC Act and the supervisory jurisdiction under Article 227 of the Constitution would remain available. The aforesaid paragraphs are reproduced herein under for ready reference:

“25. In view of above discussions when the provisions of Section 19 of the Family Courts Act are interpreted keeping the aforesaid principles in mind, it is clear that no appeal against an order passed as an interlocutory order can be filed under Section 19 of the Family Courts Act and in view of that the petition under Article 227 of the Constitution of India is maintainable.

26. So far judgment relied by learned counsel appearing for the sole opposite party in *Jayanti Prasad Gautam v. Pragya Gautam* is concerned the emphasis is not there to decide upon the nature of order whether it is interlocutory or final, as such that judgment is not helping the sole opposite party.

27. The full court's judgment of the Patna High Court in *Neelam Kumari Sinha v. Prashant Kumar* and another full court's judgment of Madhya Pradesh High Court in *Anup Kumar v. Reena* also taken the same view.

⁹2025 SCC OnLine Jhar 1604



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28. In view of the above, there are direct judgment of the Supreme Court in *Ramesh Chander Kaushal v. Veena Kaushal* as well two full courts judgments of the Patna High Court and Madhya Pradesh High Court which clearly held that if an order is interlocutory, the appeal under Section 19 of the Family Courts Act will not lie and only remedy is under Article 227 of the Constitution of India and it is further well settled that if a full court's judgment is there that is binding upon other High Courts as has been held by the Supreme Court in *Central Board of Dawoodi Bohra Community v. State of Maharashtra*

29. In view of above facts, reasons and analysis the court finds that since the order in question is interlocutory the petition under Article 227 of the Constitution of India is maintainable. The above question is answered accordingly.”

17. Reliance is also placed upon the judgment of the Bombay High Court in *Smt. Amishi Milan Honawar v. Shri Milin Bhavanishankar Honawar*¹⁰, particularly Paragraph No. 11 thereof, to contend that orders passed during the pendency of matrimonial proceedings merely for maintaining *status quo* or facilitating the adjudication of the main proceedings continue to remain interlocutory orders and are, therefore, outside the ambit of Section 19(1) of the FC Act. The aforesaid paragraph, relied upon, reads as under:

“11. The above rulings unequivocally lay down the law that the expression 'interlocutory order' used in the said provision of law refers to the orders passed during the pendency of the main proceedings and which relate to any dispute which is sought to be resolved or put to rest, temporarily and pending the disposal of the main proceedings. An order which cannot have existence or an order which do not subsist on conclusion of the main proceedings, unless it is specifically protected while disposing the main proceedings, will, for all purposes, be an interlocutory order within the meaning of the said expression under the said provision of law. Being so, any order which is passed during the pendency of the proceedings which does not amount to a final decision on any point relating to the rights of the parties and which has been passed either to maintain status quo or to facilitate the disposal of the main proceedings or for the purpose of the progress of the main proceedings, either in relation to the marital relationship or other disputes which can be dealt with by the Family Court in terms of

¹⁰ 2005 (3) Mh.L.J



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the provisions of the said Act, would be an interlocutory order and, therefore, no appeal would lie under section 19(1) against such order. Whether such an order can be assailed by way of a petition under Article 227 of the Constitution of India or not is a totally different question with which we are not concerned in this appeal.”

18. Learned senior counsel further submits that the learned Coordinate Bench of this Court had, on an earlier occasion, entertained a petition under Article 227 of the Constitution, being CM(M) 246/2026, arising out of the same matrimonial proceedings, whereby an earlier *ex-parte* interim injunction, to the same effect as that of the Impugned Order herein, was set aside and remanded back for fresh consideration *vide* Order dated 06.02.2026. Learned senior counsel for the Petitioner submits that the said circumstance lends credence to the maintainability of the present Petition under Article 227 of the Constitution as well.

19. **In rejoinder**, learned counsel appearing on behalf of the Respondent submits that the earlier order dated 06.02.2026, relied upon by the Petitioner, did not decide the issue of maintainability and merely proceeded on the facts obtaining in that case. It is submitted that an order passed without adjudicating the issue of jurisdiction cannot constitute a precedent on the question of maintainability.

20. Learned counsel for the Respondent reiterates that the true inquiry is not whether the Impugned Order has been passed at an interim stage, but whether it substantially affects the rights of the parties.

21. Learned counsel for the Respondent, therefore, submits that an anti-suit injunction restraining a litigant from prosecuting proceedings before a foreign Court has immediate and serious civil consequences and, therefore, squarely falls within the category of orders which are



appealable under Section 19(1) of the FC Act.

ANALYSIS:

22. This Court has heard the learned counsel for the parties at considerable length and, with their able assistance, perused the material available on record and the authorities cited at the Bar.

23. The short question which arises for consideration is whether the Impugned Order dated 25.03.2026 is an “*interlocutory order*” within the meaning of Section 19 of the FC Act and, consequently, whether the present Petition invoking the supervisory jurisdiction of this Court under Article 227 of the Constitution is maintainable.

24. Before examining the nature of the Impugned Order, this Court deems it apposite to notice the statutory framework governing Appeals from the Orders of the Family Court.

25. Section 19(1) of the FC Act provides a statutory right of appeal against every judgment or order of the Family Court, save and except an “*interlocutory order*”. The legislative intent is, therefore, clear. While final and adjudicatory orders are made amenable to appellate scrutiny, purely interlocutory or procedural orders are excluded from the appellate mechanism. Section 19 of the FC Act is reproduced herein under for ready reference:

“19. Appeal.—(1) Save as provided in sub-section (2) and notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908) or in the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law, an appeal shall lie from every judgment or order, not being an interlocutory order, of a Family Court to the High Court both on facts and on law.

(2) No appeal shall lie from a decree or order passed by the Family Court with the consent of the parties or from an order passed under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974): Provided that nothing in this sub-section shall apply to any appeal pending before a High Court or any order passed under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974) before the



commencement of the Family Courts (Amendment) Act, 1991 (59 of 1991).

(3) Every appeal under this section shall be preferred within a period of thirty days from the date of the judgment or order of a Family Court.

(4) The High Court may, of its own motion or otherwise, call for and examine the record of any proceeding in which the Family Court situate within its jurisdiction passed an order under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974) for the purpose of satisfying itself as to the correctness, legality or propriety of the order, not being an interlocutory order, and as to the regularity of such proceeding.

(5) Except as aforesaid, no appeal or revision shall lie to any court from any judgment, order or decree of a Family Court.”

26. Significantly, the FC Act does not define the expression “*interlocutory order*”. In the absence of a statutory definition, the expression cannot receive either an unduly expansive or an unduly restrictive interpretation. The character of an order must necessarily be determined from its substance, its effect upon the rights of the parties and the consequences which flow from it, and not merely from the stage of the proceedings at which it came to be passed.

27. The aforesaid interpretation is no longer *res integra*. A Full Bench of this Court in ***Dr. Geetanjali Aggarwal*** (*supra*), while considering the scope of Section 19 of the FC Act, authoritatively held that the nomenclature assigned to an order cannot be determinative of its true character.

28. The learned Full Bench observed that what is material is whether the order merely regulates the procedure during the pendency of the proceedings or whether it decides, affects or substantially impinges upon valuable rights of the parties. Where an order possesses the trappings of finality or determines matters of moment affecting substantive rights, such an order cannot be treated as an interlocutory order merely because it has been passed during the pendency of the



proceedings. The relevant portion of the said Judgement, being Paragraph Nos. 30 to 34, read as follow:

“30. In the light of the aforesaid, we are inclined to agree with the appellant that the nomenclature of an order in itself cannot be determinative of the nature of that order. Merely because an order, despite affecting the vital rights of the parties, is labelled as an interlocutory order under a particular statute, cannot imply that the same must always be treated as an interlocutory order. In the present case, the FC Act which provides for this appellate provision, neither defines the expression ‘interlocutory order’ nor contains any ouster provision as contained in the Commercial Courts Act, 2015, and therefore, it would be against the very object and spirit of the said Act to exclude orders that pertain to matters of moment from the ambit of the appellate provision under Section 19 (1) of the FC Act. It is only those orders which are merely procedural and do not have trappings of finality which can be treated as interlocutory orders and would, therefore, not be amenable to appeal under the FC Act.

31. In this regard, it may also be pertinent to refer to the celebrated decision of the Apex Court in *Shah Babulal Khimji (supra)*, wherein the Court while dealing with the question as to whether an order passed by the learned Single Judge refusing to appoint a receiver and grant ad interim injunction was appealable under clause 15 of the Letters Patent of the Bombay High Court which envisaged appeals only against judgments, observed that it is the nature of the order and not its nomenclature that would determine whether the order should be treated as being a judgment appealable under the said clause. The Apex Court held that while the circumstances under which orders could be treated as judgments for the purpose of clause 15 could not be laid down exhaustively, it is only those orders which have trappings of a final order and substantively decide the rights of the parties that could be treated as appealable under clause 15. It would, therefore, be apposite to refer to the following observations of the Apex Court, as contained in paragraph nos. 113 and 120 of its decision:

“113. Thus, under the Code of Civil Procedure, a judgment consists of the reasons and grounds for a decree passed by a court. As a judgment constitutes the reasons for the decree it follows as a matter of course that the judgment must be a formal adjudication which conclusively determines the rights of the parties with regard to all or any of the matters in controversy. The concept of a judgment as defined by the Code of Civil Procedure seems to be rather narrow and the limitations engrafted by sub-section (2) of Section 2 cannot be



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physically imported into the definition of the word “judgment” as used in clause 15 of the letters patent because the letters patent has advisedly not used the terms “order” or “decree” anywhere. The intention, therefore, of the givers of the letters patent was that the word “judgment” should receive a much wider and more liberal interpretation than the word “judgment” used in the Code of Civil Procedure. At the same time, it cannot be said that any order passed by a trial Judge would amount to a judgment; otherwise there will be no end to the number of orders which would be appealable under the letters patent. It seems to us that the word “judgment” has undoubtedly a concept of finality in a broader and not a narrower sense. In other words, a judgment can be of three kinds:

(1) A final judgment.— A judgment which decides all the questions or issues in controversy so far as the trial Judge is concerned and leaves nothing else to be decided. This would mean that by virtue of the judgment, the suit or action brought by the plaintiff is dismissed or decreed in part or in full. Such an order passed by the trial Judge indisputably and unquestionably is a judgment within the meaning of the letters patent and even amounts to a decree so that an appeal would lie from such a judgment to a Division Bench.

(2) A preliminary judgment.—This kind of a judgment may take two forms—(a) where the trial Judge by an order dismisses the suit without going into the merits of the suit but only on a preliminary objection raised by the defendant or the party opposing on the ground that the suit is not maintainable. Here also, as the suit is finally decided one way or the other, the order passed by the trial Judge would be a judgment finally deciding the cause so far as the Trial Judge is concerned and therefore appealable to the larger Bench. (b) Another shape which a preliminary judgment may take is that where the trial Judge passes an order after hearing the preliminary objections raised by the defendant relating to maintainability of the suit, e.g., bar of jurisdiction, res judicata, a manifest defect in the suit, absence of notice under Section 80 and the like, and these objections are decided by the trial Judge against the defendant, the suit is not terminated but continues and has to be tried on merits but the order of the trial Judge rejecting the objections doubtless adversely affects a valuable right of the defendant who, if his objections are valid, is entitled to get the suit dismissed on preliminary grounds. Thus, such an



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order even though it keeps the suit alive, undoubtedly decides an important aspect of the trial which affects a vital right of the defendant and must, therefore, be construed to be a judgment so as to be appealable to a larger Bench.

(3) *Intermediary or interlocutory judgment.*— Most of the interlocutory orders which contain the quality of finality are clearly specified in clauses (a) to (w) of Order 43 Rule 1 and have already been held by us to be judgments within the meaning of the letters patent and, therefore, appealable. There may also be interlocutory orders which are not covered by Order 43 Rule 1 but which also possess the characteristics and trappings of finality in that, the orders may adversely affect a valuable right of the party or decide an important aspect of the trial in an ancillary proceeding. Before such an order can be a judgment the adverse effect on the party concerned must be direct and immediate rather than indirect or remote. For instance, where the trial Judge in a suit under Order 37 of the Code of Civil Procedure refuses the defendant leave to defend the suit, the order directly affects the defendant because he loses a valuable right to defend the suit and his remedy is confined only to contest the plaintiff's case on his own evidence without being given a chance to rebut that evidence. As such an order vitally affects a valuable right of the defendant it will undoubtedly be treated as a judgment within the meaning of the letters patent so as to be appealable to a larger Bench. Take the converse case in a similar suit where the trial Judge allows the defendant to defend the suit in which case although the plaintiff is adversely affected but the damage or prejudice caused to him is not direct or immediate but of a minimal nature and rather too remote because the plaintiff still possesses his full right to show that the defence is false and succeed in the suit. Thus, such an order passed by the trial Judge would not amount to a judgment within the meaning of clause 15 of the letters patent but will be purely an interlocutory order. Similarly, suppose the trial Judge passes an order setting aside an *ex parte* decree against the defendant, which is not appealable under any of the clauses of Order 43 Rule 1 though an order rejecting an application to set aside the decree passed *ex parte* falls within Order 43 Rule 1 clause (d) and is appealable, the serious question that arises is whether or not the order first mentioned is a judgment within the meaning of letters patent. The fact, however, remains that the order setting aside the *ex parte* decree puts the defendant to a great



advantage and works serious injustice to the plaintiff because as a consequence of the order, the plaintiff has now to contest the suit and is deprived of the fruits of the decree passed in his favour. In these circumstances, therefore, the order passed by the trial Judge setting aside the ex parte decree vitally affects the valuable rights of the plaintiff and hence amounts to an interlocutory judgment and is therefore, appealable to a larger Bench”

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120. Thus, these are some of the principles which might guide a Division Bench in deciding whether an order passed by the trial Judge amounts to a judgment within the meaning of the letters patent. We might, however, at the risk of repetition give illustrations of interlocutory orders which may be treated as judgments:

(1) An order granting leave to amend the plaint by introducing a new cause of action which completely alters the nature of the suit and takes away a vested right of limitation or any other valuable right accrued to the defendant.

(2) An order rejecting the plaint.

(3) An order refusing leave to defend the suit in an action under Order 37, of the Code of Civil Procedure.

(4) An order rescinding leave of the trial Judge granted by him under clause 12 of the letters patent.

(5) An order deciding a preliminary objection to the maintainability of the suit on the ground of limitation, absence of notice under Section 80, bar against competency of the suit against the defendant even though the suit is kept alive.

(6) An order rejecting an application for a judgment on admission under Order 12 Rule 6.

(7) An order refusing to add necessary parties in a suit under Section 92 of the Code of Civil Procedure.

(8) An order varying or amending a decree.

(9) An order refusing leave to sue in forma pauperis.

(10) An order granting review.

(11) An order allowing withdrawal of the suit with liberty to file a fresh one.



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(12) *An order holding that the defendants are not agriculturists within the meaning of the special law.*

(13) *An order staying or refusing to stay a suit under Section 10 of the Code of Civil Procedure.*

(14) *An order granting or refusing to stay execution of the decree.*

(15) *An order deciding payment of court fees against the plaintiff."*

32. We may note that though this judgment of the Apex Court was rendered 3 years before the FC Act was enacted, the FC Act still does not define as to what would be an interlocutory order. In these circumstances, there is no reason why the provisions of Section 19 of the FC Act must not be purposively interpreted to include within its ambit all those orders which touch upon matters of moment and have trappings of finality. An order under Section 12 of the GW Act which entitles the Court to grant temporary custody of the child to one of the parents would definitely be an order passed after evaluating the respective contentions of the parties and would necessarily affect not only their rights but also those of the minor child. To hold that such an order would not fall within the ambit of Section 19 (1) of the FC Act would not only amount to unduly restricting the scope of this appellate provision but would also curtail the exercise of the *parens patriae* jurisdiction which the Court exercises in the welfare of the minor child.

33. In the light of the aforesaid, we may also note herein below the findings of the learned Division Bench, as contained in paragraph no. 13 of its decision in *Col Ramesh Pal (supra)*, the correctness of which findings has been doubted under the reference order:

"13. Hence, we conclude by saying that the procedural law i.e. The Family Courts Act, 1984 promulgated about three years after the judgement of the Supreme Court in Shah Babulal Khimji (supra), does not give any room for the purpose of appeal from any interlocutory order. Secondly, neither the subjective law i.e. The Guardians and Wards Act, 1890, under which the application was made, provides any scope of appeal from such type of order nor any similar provision under different Act i.e. Section 26 of the Hindu Marriage Act, 1955 provides any scope of appeal from an interim order. Lastly, express intention of the legislature is to be understood from its plain reading at first and in case any vacuum arose, the same is to be understood by the implied intention from



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such Act as well as parallel Act, if any. In this case neither the express intention nor the implied intention of the legislature speaks that an appeal can be preferred from the order impugned.”

34. As we have already held hereinabove that the powers exercisable under the FC Act, could not be controlled by the provisions of other statutes, we are of the view that the criteria prescribed under the GW Act, could not be applied to test whether an order should be treated as an interlocutory order for the purposes of the FC Act. The mere fact that an order under Section 12 of the GW Act has been labelled as an interlocutory order under the said Act, cannot, therefore, be a ground to hold the same as an interlocutory order under the FC Act, which Act was enacted 94 years later and was intended to provide a much wider window for appeal. In our view, in every case, when an order passed by the Family Court, is taken in appeal before the High Court, it would be incumbent upon the Court to examine the nature of the impugned order in its entirety to determine whether the same is in the nature of an adjudicatory order which decides valuable rights of the parties. Whenever the Court finds that an order touches upon the vital rights of the parties in contradistinction to an order which is merely a procedural order, an appeal ought to be entertained, irrespective of the fact that the order was passed during the pendency of the proceedings before the learned Family Court.”

29. In arriving at the aforesaid conclusion, the learned Full Bench extensively relied upon the principles laid down by the Hon’ble Supreme Court in ***Shah Babulal Khimji*** (*supra*), wherein the Hon’ble Supreme Court drew a distinction between purely procedural orders and those interlocutory orders which possess the characteristics of finality. The Hon’ble Supreme Court explained that certain interlocutory orders, though passed before the culmination of the proceedings, nevertheless decide important aspects of the lis or directly affect valuable civil rights and, therefore, partake the character of appealable orders.

30. The underlying rationale behind the aforesaid principle is not difficult to discern. If the Court were to proceed solely on the basis that every order passed during the pendency of proceedings is



interlocutory, the statutory right of appeal would stand substantially diluted notwithstanding that such orders may have immediate and irreversible consequences upon the rights of the litigating parties. It is precisely to avoid such an anomalous situation that the Courts have consistently held that the determinative factor is the effect of the order and not merely the point of time at which it is passed.

31. The learned Full Bench has, therefore, held that while examining maintainability under Section 19 of the FC Act, the Court must determine whether the impugned order merely facilitates the progress of the proceedings or whether it substantially adjudicates upon or affects valuable rights of the parties. If the latter test is satisfied, the order would cease to be an interlocutory order notwithstanding that the proceedings themselves remain pending before the Family Court.

32. It is equally well settled that the supervisory jurisdiction under Article 227 of the Constitution cannot ordinarily be invoked where the statute itself provides an efficacious appellate remedy. The constitutional power undoubtedly remains available, however, where the Legislature has consciously provided a specific appellate mechanism against a particular class of orders, parties are ordinarily required to exhaust that remedy before invoking the extraordinary supervisory jurisdiction of this Court.

33. The determination of maintainability of the present Petition, therefore, necessarily depends upon whether the Impugned Order falls within the category of appealable orders contemplated under Section 19 of the FC Act.

34. Tested on the aforesaid principles, this Court is unable to accept the submission advanced on behalf of the Petitioner that the Impugned



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Order is merely interlocutory in nature.

35. The Impugned Order is not one regulating the procedure of the suit, directing exchange of pleadings, directing filing of affidavits, granting adjournments, issuing summons or passing other orders merely intended to regulate the conduct of the proceedings. Rather, by the Impugned Order, the learned Family Court has restrained the Petitioner from prosecuting matrimonial proceedings admittedly instituted by him before a competent American Court.

36. The consequence of such an injunction is both immediate and substantive during the period for which it remains operative. Till the period the injunction continues, the Petitioner remains disabled from prosecuting proceedings before the American Court. Such deprivation cannot subsequently be undone merely because the suit ultimately reaches its conclusion. The order, therefore, is not merely procedural in its operation; it directly curtails the Petitioner's ability to pursue a legal remedy in another jurisdiction.

37. Equally, the effect of the Impugned Order is not confined merely to regulating the conduct of the proceedings before the learned Family Court. The injunction travels beyond the proceedings pending in India and operates upon proceedings pending before the American Court. Such an order undoubtedly carries significant civil consequences for both parties and substantially affects the manner in which their matrimonial disputes may be adjudicated.

38. The Court also cannot ignore the practical consequences flowing from such a restraint. Matrimonial proceedings before a foreign Court involve substantive questions concerning the marital status and consequential rights and obligations of the parties. A restraint upon the prosecution of such proceedings therefore has



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consequences extending beyond the procedural conduct of the proceedings before the learned Family Court. The effect of the Impugned Order cannot, consequently, be characterised as remote, speculative or merely procedural.

39. This Court also finds merit in the submission advanced on behalf of the Respondent that the injunction granted by the learned Family Court bears a direct nexus with the principal relief claimed in the suit itself. The suit before the learned Family Court has been instituted seeking, *inter alia*, a permanent injunction restraining continuation of the foreign matrimonial proceedings. The interim injunction, therefore, is not an independent procedural arrangement but constitutes an interim protection in aid of the very substantive relief sought in the suit.

40. Though an interim order is, by its very nature, subject to variation, modification or vacation during the pendency of the proceedings, that circumstance alone cannot lead to the conclusion that every interim order is necessarily interlocutory for the purposes of Section 19 of the FC Act. Were such an interpretation to be accepted, every order granting or refusing injunction, irrespective of the extent to which it affects valuable rights, would stand excluded from appellate scrutiny. Such a consequence would run contrary to the ratio laid down by the learned Full Bench in ***Dr. Geetanjali Aggarwal*** (*supra*).

41. The fact that the restraint is temporary in duration is not, by itself, determinative of its character under Section 19 of the FC Act. Temporariness describes the duration for which an order operates, it does not necessarily determine whether the order is interlocutory. The relevant inquiry remains whether, during the period of its operation,



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the order directly and materially affects valuable rights or determines an important aspect of the lis. An order may thus be temporary in duration and yet possess the trappings of finality for the purposes of Section 19(1) of the FC Act.

42. The present case stands on an even stronger footing. The injunction granted by the learned Family Court is not confined to preserving the subject matter of the proceedings pending before it. Rather, it operates directly upon proceedings pending before a foreign Court by restraining one of the parties from prosecuting the remedy already invoked before such Court. The operation of such an order is therefore neither confined territorially to the proceedings before the learned Family Court nor merely procedural in character. Such an order plainly answers the description of an adjudicatory order affecting valuable rights as contemplated by the Full Bench in ***Dr. Geetanjali Aggarwal*** (*supra*).

43. The learned Full Bench has unequivocally held that the expression “*interlocutory order*” under Section 19 of the FC Act cannot be construed solely with reference to the stage at which the order has been passed. The Court is instead required to examine the nature and effect of the order in its entirety and determine whether it merely facilitates the conduct of the proceedings or whether it substantially affects valuable rights of the parties.

44. In the considered opinion of this Court, an anti-suit interim injunction restraining a party from prosecuting matrimonial proceedings before a foreign Court cannot be equated with an order passed merely for regulating procedure or preserving orderly conduct of the proceedings before the learned Family Court. Such an injunction has the effect of immediately restricting the legal remedies



available to a litigant outside India and, therefore, possesses the trappings of an adjudicatory order affecting substantive civil rights.

45. This Court is also unable to accept the submission that the Impugned Order merely maintains the *status quo* and, therefore, ought to be treated as an interlocutory order. The expression “*status quo*” cannot be determinative of the nature of an order. An order maintaining *status quo* may, in a given case, operate upon valuable proprietary, contractual, custodial or matrimonial rights and may have consequences far beyond the procedural management of the proceedings. The inquiry must always remain focused upon the legal effect of the order and not the phraseology employed while granting the relief.

46. Further, the Judgments relied upon by the learned senior counsel for the Petitioner also do not advance the case of the Petitioner. However, each of them warrants consideration in the factual context in which the respective orders were held to be interlocutory.

47. The decision of the Jharkhand High Court in ***Mukund Murari Mahto*** (*supra*), relied upon by the learned senior counsel for the Petitioner, therefore, merits consideration. The Court, while examining the distinction between an interlocutory order and an order possessing the trappings of finality, also observed as follows:

“21. An order to be a judgment or an order finally deciding any issue it is necessary that such an order while not finally and conclusively deciding or determining the rights of the parties with regard to all or any matter in controversy may still have the ring of finality in the case it affects the vital and valuable rights and obligations of the parties involved in the proceedings. To put it differently, if any order passed by the Family Court decides any question between the parties which directly affects the decision in the main case or which finally decides any collateral issue in perpetuity, it would be a judgment or order which is appealable but



if an order, though deciding an issue between the parties finally, is temporary and interim in nature and has no bearing or effect on the rights of the parties or the main issue involved in the case, it would fall within the parameters of an interlocutory order.”

48. The aforesaid exposition, in fact, does not advance the case of the Petitioner. On the contrary, the distinction drawn therein reinforces the conclusion which this Court has reached hereinabove. In ***Mukund Murari Mahto*** (*supra*), the Court was concerned with an order directing payment of *pendente lite* maintenance. The Court found that the application for maintenance had not been finally decided, that the claim continued to remain alive and that the impugned order operated merely as an interim arrangement during the pendency of the proceedings. The order, therefore, did not finally or substantially determine the rights of the parties in respect of the underlying claim.

49. The position in the present case is materially different. The Impugned Order does not merely regulate a temporary monetary arrangement or preserve an ancillary claim pending its final adjudication. It directly restrains the Petitioner from prosecuting matrimonial proceedings already instituted by him before a foreign Court. The restraint thus operates directly upon the Petitioner’s ability to pursue a legal remedy which he has already invoked before a competent jurisdiction.

50. More importantly, the Impugned Order herein bears a direct nexus with the substantive relief claimed in the suit itself, namely, the restraint against continuation of the foreign matrimonial proceedings. The interim injunction thus operates in aid of, and directly advances, the very substantive relief which the Respondent seeks by way of final adjudication. The present case, therefore, is materially distinguishable from the factual situation in ***Mukund Murari Mahto*** (*supra*), where



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the order under consideration was confined to an interim monetary arrangement pending adjudication of the underlying claim.

51. The decision of the Bombay High Court in ***Smt. Amishi Milan Honawar*** (*supra*), on which learned senior counsel has also placed reliance, is also distinguishable on its facts and the nature of the relief under consideration. In the said case, the Family Court had, during the pendency of divorce proceedings, directed the appellant to permit the Respondent and members of his family to enter, occupy, use and utilise the flat which was the subject matter of the dispute between the parties.

52. The Bombay High Court held that the said order was interlocutory principally for the reason that it was an order passed during the pendency of the matrimonial proceedings which had no existence or enforceability after conclusion of the main proceedings, unless specifically protected by the Family Court at the time of final disposal. The Court accordingly treated the order as one intended to operate during the pendency of the proceedings and not as one finally determining the rights of the parties in respect of the subject matter.

53. The factual and legal setting in the present case is materially different. The Impugned Order does not merely regulate the use or enjoyment of an asset, or make a temporary arrangement between the parties concerning the subject matter of the matrimonial proceedings. It restrains the Petitioner from prosecuting substantive matrimonial proceedings already instituted by him before a foreign Court. The restraint thus operates directly upon the Petitioner's pursuit of a legal remedy in another jurisdiction and is not confined to the regulation of the parties' position during the pendency of the proceedings before the learned Family Court.



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54. The distinction is, therefore, not merely one of the form of the relief granted, but of its legal operation and consequences. In **Smt. Amishi Milan Honawar** (*supra*), the order was treated as interlocutory because it was temporary in character and was incapable of surviving the final disposal of the matrimonial proceedings unless specifically protected. In the present case, however, the Impugned Order directly restrains the prosecution of an independent proceeding before a foreign Court and thereby immediately affects the Petitioner's ability to pursue a substantive legal remedy. The principle laid down in **Amishi Milan Honawar** (*supra*) cannot, therefore, be applied to the Impugned Order in the same manner.

55. In view of the foregoing discussion, this Court is of the considered view that neither of the aforesaid decisions, relied upon by the learned senior counsel for the Petitioner, can govern the controversy before this Court in preference to the authoritative pronouncement of the Full Bench of this Court in **Dr. Geetanjali Aggarwal** (*supra*), which directly interprets Section 19 of the FC Act and is binding upon this Court.

56. Learned senior counsel for the Petitioner has also sought to rely upon the earlier Order dated 06.02.2026 passed by a Coordinate Bench of this Court in proceedings arising out of the same matrimonial dispute. This aforesaid submission also does not merit acceptance.

57. A perusal of the said Order reveals that the issue of maintainability of the proceedings under Article 227 of the Constitution neither arose for consideration nor came to be adjudicated therein. It is well settled that a decision is an authority only for what it actually decides. An order passed without examining



or deciding the question of maintainability cannot be treated as laying down any binding principle on that issue.

58. In view of the aforesaid discussion, this Court is of the considered opinion that the Impugned Order materially affects the valuable rights of the parties and possesses the trappings of an appealable order within the meaning assigned by the learned Full Bench in *Dr. Geetanjali Aggarwal (supra)*. It cannot, therefore, be characterised as an interlocutory order for the purposes of Section 19 of the FC Act and is amenable to the appellate jurisdiction under Section 19(1) thereof.

59. Once a statutory appellate remedy is available, this Court would not ordinarily exercise its supervisory jurisdiction under Article 227 of the Constitution. The jurisdiction under Article 227 of the Constitution, though plenary in nature, is intended to be exercised sparingly and cannot be permitted to supplant a statutory remedy specifically provided by the Legislature.

DECISION:

60. This Court is, therefore, of the view that the present Petition, as framed under Article 227 of the Constitution, is not maintainable.

61. Accordingly, the present Petition is dismissed, leaving it open to the Petitioner to avail such remedy as may be permissible under the law.

62. It is clarified that this Court has expressed no opinion whatsoever on the correctness or otherwise of the findings recorded in the Impugned Order or on the merits of the rival contentions of the parties. All questions on merits are expressly left open to be urged in the appropriate proceedings.



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63. The present Petition, along with all the pending Application(s), if any, stands disposed of in aforementioned terms.

HARISH VAIDYANATHAN SHANKAR, J.
AUGUST 6, 2026/v/DJ

Signature Not Verified

Digitally Signed
By: HARVINDER KAUR
BHATIA
Signing Date: 08.08.2026
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