

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FAMILY COURT APPEAL No. 172 OF 2014

Nitin S. Jadhav. ..Appellant.
Versus
Tejaswita N. Jadhav. ..Respondent.

WITH
CROSS OBJECTION No. 30097 OF 2014
IN
FAMILY COURT APPEAL No. 172 OF 2014

Nitin S. Jadhav. ..Appellant.
Versus
Tejaswita N. Jadhav. ..Respondent.

Mr. H. T. Pawar for the Appellant.
Mr. Vinod Y. Jadhav for the Respondent.

Coram : RANJIT MORE &
K.R.SHRIRAM, JJ.
Date : **August 6, 2015.**

P. C. :

1. Heard the learned Counsel appearing for the Appellant and the Respondent.
2. By this appeal, the Appellant-husband is challenging the order passed by the Family Court Mumbai at Bandra in Petition No.C-152 of 2009. By the order impugned, the petition filed by the Respondent-wife under section 18 of the Hindu

Adoptions and Maintenance Act, 1956 was partly allowed and Appellant-husband was directed to pay her maintenance @ Rs.5,000/- per month for the period between 1st November 2009 and 31st March 2014 and further @ Rs.7,000/- per month with effect from 1st April 2014. The Appellant was also directed to pay Rs.1,68,308/- to the Respondent towards her medical expenses incurred during the period between 20.12.2009 to 8.01.2010 and onwards. By the Cross-objections, the Respondent-wife is seeking enhancement in the amount of maintenance.

3. The Family Court has considered the position and status of the parties, reasonable wants of the Respondent-wife and thereafter arrived at the conclusion that maintenance @ Rs.7,000/- per month would be just and proper. The Family Court has also considered the fact that Appellant earns Rs.40,000/- per month by way of salary and his home take is Rs.28,000/-.

4. The learned Counsel appearing for the Respondent placed on record salary-slip of the Appellant for the month of July 2015. The said salary-slip indicates that gross salary of the

Appellant is Rs.45,202/- and after deduction he gets net salary of Rs.33,229/-.

5. The learned Counsel appearing for the Appellant submitted that the Respondent is residing with her parents and brother and her brother is Bank Manager and he can take care of the Respondent and therefore no maintenance ought to have been granted. The argument is complete misconception on the part of Appellant. It is the responsibility of the appellant-husband to maintain his wife and she cannot be asked to remain dependent on her parents or brother. The learned Counsel appearing for the Appellant does not dispute that the Respondent-wife is housewife and does not have any source of income. Under the impugned order, an amount of Rs.7,000/- is granted as monthly maintenance. It is 1/5th of appellant's salary.

6. The learned Counsel appearing for the Respondent submitted that considering the gross salary of the Appellant, which is more than Rs.45,000/-, the Respondent ought to have been granted maintenance of more than Rs.10,000/- per month.

7. We do not feel that any interference with the amount of maintenance is required at the hands of this Court. The Court below has rightly weighed the needs of the Respondent and ability of the Appellant to pay the maintenance amount. The view taken on the quantum of maintenance by the Court below is just and reasonable.

8. With regard to the order passed by the Court below for payment of medical expenses to the Respondent, the learned Counsel appearing for the Appellant submitted that there is no evidence on record to support the same. He submitted that the Court below has committed an error in upholding the claim of the Respondent of Rs.1,68,308/- towards the medical expenses. We find that the learned Judge of the Family Court has considered the rival claims in para 26 of his judgment and arrived at the conclusion that the Appellant is bound to bear the medical expenses of his wife. We do not find any infirmity in the said finding. That apart, the Appellant does not dispute that the Respondent suffered paralysis attack and she was required to

undergo medical treatment and that in future also she would be required to undergo medical treatment for the same. We find that the Court below has not committed any error in relying upon the evidence produced in support of the claim for medical expenses and allowing reimbursement of the same.

9. Taking overall view of the matter, we find that the impugned order is just and proper and it does not warrant any interference at the hands of this Court. Appeal as well as Cross-Objections are, therefore, dismissed.

[K. R. SHRIRAM, J.]

[RANJIT MORE, J.]