

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 256 OF 2013
IN
FAMILY COURT APPEAL NO. 10 OF 2013**

Mrs. Bhavna Rajesh Mehta ..Applicant

v/s.

Rajesh Mehta . ..Respondent

Mr. V.V.Salunkhe i/b. S.K.Shinde for the Appellant.
Mr.VJShah i/b. Nitin Mulye for the Respondent.

**CORAM : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI,JJ.
DATED : JANUARY 16, 2015.**

P.C.

1. The Application is preferred for direction to the respondent to pay amount of Rs.35,000/- per month to the applicant towards interim maintenance during pendency of the above appeal.
2. The applicant preferred petition before the family court for decree of divorce on the ground of cruelty and desertion, against the respondent.
3. The application for divorce came to be dismissed. The

respondent was further directed to allow the applicant to stay in the matrimonial flat with further direction to prepare one room in the hall as per the size of the bedroom.

4. It is pertinent to note that during pendency of the petition before the family court the applicant in fact preferred an application under Section 24 of the Hindu Marriage Act for interim maintenance. However, this application was not pressed and the petition was ultimately dismissed on merits. Be that as it may, the applicant does not dispute that the respondent since 1997 is suffering from a neurological disorder diagnosed as adhoc multiple sclerosis. The respondent husband is completely incapacitated and is unable to move , therefore unable to earn his livelihood. He is at the mercy of his sister.

5. Learned Counsel for the applicant submits that there is a lot of family properties which is sold and respondent has got share in it. This assertion is disputed by the learned counsel for the respondent. *Prima facie*, there is nothing on record to substantiate the applicant's contention in this regard.

6. In the above circumstances, in our opinion, the applicant is not entitled for interim maintenance. Application is accordingly dismissed. However, hearing of the appeal is expedited.

7. The above observations are restricted to this application and shall not come in the way of hearing of the appeal. The appeal shall be independently disposed of without being influenced by this order.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)