

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.2971 OF 2015
IN
WRIT PETITION NO.9122 OF 2015

Mr. Rajiv Hiranandani.] ... Applicant

Versus

Mrs. Namrata Zakaria.] ... Respondent

Mr. Riyaz Chagla a/w Mr. Edith Dey for Applicant.

Mr. Himanshu Nagarkar h/f Mrs. Taubon F. Irani for Respondent.

CORAM :- M. S. SONAK, J.

DATE :- OCTOBER 29, 2015

P. C. :-

1. This application is a circuitous attempt to avoid compliance of the order dated 14/10/2015. By the order dated 14/10/2015, the applicant has been directed to deposit only 50% of the amount awarded as maintenance to his wife which is approximately Rs.4,00,000 (Rupees Four Lacs Only). It is made clear that such deposit shall be without prejudice to the contentions raised by the applicant in this petition. Deliberately, sufficient time was granted to effect deposit and it was observed that such extended time is being granted, so that the applicant will not seek any additional time for effecting the deposit.

2. By this Civil Applicant, the applicant does not apparently seek for any extension of time, but prays that the respondent be directed to hand over duplicate keys of the flat, which he says is the matrimonial home, so that the applicant is able to take away paintings, furniture and electronic gadgets etc. and sell them in order to raise the finances for complying with the directions issued by this Court. The learned Counsel for applicant has handed in compilation of documents which include, *inter alia*, salary slip, certain emails as well as receipts towards paintings, furniture, electronic gadgets etc. On basis of the same, it is submitted that the applicant has no means to comply with the order directing maintenance and unless the applicant is granted entry into the matrimonial home and permitted to sell off such household articles, the applicant will not be in a position to comply with the directions issued by this Court.

3. Even on the basis of the salary slip produced by the applicant, it is more than apparent that the applicant has both the means and the capacity to pay an amount of Rs.4,00,000/- to his wife. The attempt on the part of the applicant is to unnecessarily widen the scope of dispute and attempt to create some grounds or justification for non-compliance with the directions issued by this Court. From the tenor of the application, which, *inter alia*, makes reference to retrieving paintings of M. F. Hussain and the eventual sale of the paintings and household articles, it is clear that the same lacks good faith. The entire attempt appears to be to create grounds for avoiding compliance with the directions of this Court or in any case, to attempt to settle dispute relating to the flat.

4. That apart, the learned Counsel for respondent submits that the applicant has a bungalow in Koregaon Park, Pune and his parents also have several properties from which the applicant has rental income, to which, no reference has been made by the applicant. At this stage, it is not necessary to consider this aspect, more particularly, since the learned Counsel for applicant has disputed this aspect.

5. Be that as it may, it is apparent that the applicant has both means and capacity to pay particularly since the direction is for deposit of only 50% of the amount awarded as maintenance which comes to approximately Rs.4,00,000/- (Rupees Four Lacs Only). It is necessary to record that the impugned order directing maintenance was made on 09/01/2015 and the applicant has not bothered to comply with the same till date.

6. This Civil Application is therefore dismissed with costs of Rs.10,000/- (Rupees Ten Thousand Only). The costs to be paid to the respondent on or before 24/11/2015, which is the date for final disposal of the Writ Petition.

(M. S. SONAK, J.)