

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

**CIVIL APPLICATION NO. 94 OF 2016
IN
FAMILY COURT APPEAL NO. 142 OF 2010**

Shri Peter Pereira ... Applicant
V/s.
Mrs. Blossom Peter Pereira ... Respondent

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Mr. peter Joseph Pereira applicant (husband) in person.
Mr. P. M. Shah a/w Ms. Jign Shah for respondent (wife).

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**CORAM : A. S. OKA & A. A. SAYED, JJ.
DATE : 20 JULY, 2016.**

P.C. :

1. Heard the Applicant–husband appearing in person. He is the Appellant in the Family Court Appeal. He filed a petition for divorce against the Respondent-wife in the Family Court at Bandra. By the decree which is a subject matter of challenge in the Family Court Appeal filed by him, the petition of divorce has been dismissed. The present application is filed by the Applicant-husband seeking interim maintenance of Rs. 20,000/- per month from his

wife, who is the Respondent in the petition.

2. In terms of the order dated 9th February 2015, the Applicant has filed an affidavit and has also produced certain documents. In the said affidavit dated 4th July 2016, he has stated that, he was employed in the Ministry of Defence Engineering Services of Sultanate of Oman, in the capacity as a Steward from 24th September 1984 till 7th February 1991. He is relying upon certificate dated 12th February 1991, issued by the Ministry of Defence of Sultanat of Oman. The said certificate records that he was drawing monthly salary of Rials Omani 120/- and was entitled to free medical treatment and bachelor's accommodation. The contention of the applicant as reflected from the affidavit is that his last drawn salary from the Ministry of Defence was approximately Rs. 60,000/- per month in the 1991. He claims that he did not receive any retirement benefits. He is relying upon medical reports from May 2010 onwards to show that he is suffering from various ailments. In the entire affidavit filed today it is not the case made out by the Applicant that, after he ceased to be in the employment of the

Ministry of Defence of Sultanate of Oman from 17th February 1991, he made any effort to take up any permanent employment or to do anything for earning livelihood. At this stage, the Applicant states that after 17th February 1991, he was working with different employers such as hotels as a steward. However, he was not getting a regular job. This statement made across the bar is not disclosed in the application. He has not disclosed as to what was his income after 17th February 1991. Thus, it is apparent that apart from the fact that the Applicant has suppressed material facts from the Court, after 17th February 1991, he was gainfully employed. There was a specific direction issued under order dated 9th June 2016 to disclose as to what was his last drawn salary and what were the perquisites lastly received by the Applicant. As the Applicant now states that he was employed even after February 1991, it is obvious that the Applicant has suppressed the said information though he was duty bound to disclose the same in view of the order dated 9th June 2016. He has not disclosed the investments made by him and property possessed by him. As the applicant has chosen to suppress income

received by him after 17th Feb 1991, it cannot be accepted that Applicant has no investments.

3. Thus part from the aforesaid conduct, we are of the view that the Applicant always had earning capacity and therefore, he cannot seek monthly maintenance from his wife.

4. Accordingly application is rejected.

(A. A. SAYED, J.)

(A. S. OKA, J.)