

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 369 of 2015
IN
FAMILY COURT APPEAL NO.248 OF 2014

Shailaja Sanjay Kadam. .. Applicant.
Vs
Sanjay Shahaji Kadam. .. Respondent
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Shri V.S. Gokhale for the Applicant.
Shri Vilas B. Tapkir for the Respondent.
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CORAM : A.S. OKA & A.A. SAYED, JJ
DATED : 23RD JUNE 2016

P.C.

1. Heard learned counsel appearing for the Applicant wife and the learned counsel appearing for the Respondent husband.

2. The Applicant wife is the Appellant in the Appeal. A decree of divorce was passed by the Family Court at Pune on a Petition filed by the Respondent husband is impugned in the Appeal. The case of the Respondent husband is that after the decree of divorce is passed, he has re-married after expiry of the period of limitation for filing an Appeal and that there is a child born to the second wife.

3. The prayer in this Application is for grant of interim maintenance at the rate of Rs.10,000/- per month. The contention of

the Applicant is that apart from the fact that the Respondent husband is owner of a truck, he is holding an agricultural land and his income is atleast Rs.15,000/- per month. There is a reply filed by the Respondent husband. In the reply, it is not disputed that he is the owner of a Tata Truck. The contention of the Respondent husband is that he is not holding an agricultural land and his income from the said Truck is only Rs.10,000/- per month.

4. The learned counsel appearing for the Respondent states that two children of the first marriage with the Applicant are also with the Respondent and considering the income of the Respondent, it is not possible for him to pay maintenance as prayed for to the Applicant.

5. It is not the case of the Respondent that the Applicant is earning. A substantive Appeal against the decree of divorce is pending. Therefore, the liability of the Respondent to pay maintenance cannot be disputed. The Respondent has admitted that he is the owner of a Tata Truck. He wants the Court to believe that he is getting the income from the said Truck of only Rs.10,000/- per month. No particulars have been placed on record along with the reply of the Respondent to show that his income is only Rs.10,000/- per month. Therefore, the said statement cannot be accepted for his face value.

6. The Applicant is the resident of City of Pune. She has no source of income. Therefore, a reasonable amount will be paid by the Respondent to the Applicant. Considering the facts of the case, the interim maintenance will have to be fixed at Rs.6,500/- per month. Accordingly, we dispose of the Application by passing the following order.

ORDER :

- (a) Till disposal of the Appeal, the Respondent husband shall pay to the Applicant interim maintenance at the rate of Rs.6,500/- per month from 1st May 2015 onwards as the present Application was filed on 15th April 2015;
- (b) The Advocate for the Applicant shall furnish particulars of the bank account to the Advocate for the Respondent within a period of two weeks from today;
- (c) We direct the Respondent husband to pay arrears payable upto 30th June 2016 on or before 30th September 2016;

- (d) Maintenance payable from July 2016 onwards shall be deposited by the Respondent in the bank account of the Applicant directly on or before the 15th day of every calender month;
- (e) The Application is disposed of on above terms.

(A.A. SAYED, J)

(A.S. OKA, J)