

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.239 OF 2013
IN
FAMILY COURT APPEAL NO.151 OF 2013

Sou Madhuri Ramakant Desale & Anr. Applicants

V/s

Ramakant Pundalik Desale Respondent

Mr. V.C. Ghosalkar for the Applicants.

Mr. Pravartak Pathak for Respondent.

CORAM : A.S. OKA &
A.A. SAYED, JJ.

DATED : 29 JUNE 2016

ORDER:

1 Heard the learned Counsel appearing for the Applicants and the learned Counsel appearing for the Respondent. The first Applicant is the wife of the Respondent and the second Applicant is her son. The Appeal is preferred by the Applicants for challenging the Decree of the Family Court, Nashik by which the Petition filed by them under section 18 of the Hindu Maintenance and Adoption Act, 1956 has been dismissed.

2 We have perused the Affidavits filed on the record by the first Applicant as well as the Respondent. As per the Affidavit of the first Applicant, she is a regular employee of a school as an Assistant Teacher.

Her gross emoluments for May 2016 are Rs.48,210/- and the net emoluments are Rs.34,814/-. As far as the Respondent husband is concerned, his Affidavit discloses that he is also an Assistant Teacher in a school and net emoluments received by him for April 2016, May 2016 and June 2016 are Rs.36,729/-, Rs.32,866/- and Rs.29,306/- respectively.

3 The second Applicant is studying in 7th standard. In next one or two years, large amount will be required to be spent on the education of the son which will include fees of the school as well as fees of additional coaching. Therefore, we are of the view that the total amount required for the maintenance of the child will be not less than Rs.10,000/- per month. The first Applicant and the Respondent are liable to equally contribute the said amount as both of them are employed. Therefore, the first Applicant will have to contribute a sum of Rs.5,000/- per month from 1 September 2013 as the present Application has been filed in August 2013. It is not in dispute that as per the order passed by the Court of Magistrate under section 125 of the Code of Criminal Procedure, 1973 (for short "CrPC") the Respondent is liable to pay a sum of Rs.3,000/- per month by way of maintenance to the child. Therefore, in addition to that amount, from 1 September 2013, the Applicant will have to pay a sum of Rs.2,000/- per month. Learned Counsel appearing for the Applicants on instructions states that the Respondent is in arrears as far as payment at

the rate of Rs.3,000/- per month is concerned. The learned Counsel for the Respondent states that arrears will be cleared within a period of two weeks from today.

- 4 Hence, we dispose of the Application by passing following order:-
- i) We direct the Respondent to pay total maintenance at the rate of Rs.5,000/- per month till the disposal of the Appeal for the benefit of the second Applicant son. The amount of Rs.5,000/- per month shall be payable from 1 September 2013 which will be inclusive of the sum of Rs.3,000/- per month payable by the Respondent under the provisions of section 125 of the CrPC. Thus, in addition to the amount of Rs.3,000/- per month payable under the orders of the learned Magistrate, the Respondent shall pay a sum of Rs.2.000/- per month from 1 September 2013 onwards;
 - ii) The learned Advocate for the Applicants shall furnish necessary particulars of the Bank account of the first Applicant along with a copy of cancelled cheque to the learned Advocate for the Respondent within a period of two weeks from today;
 - iii) The arrears payable in terms of the order of the learned Magistrate shall be paid by the Respondent within a period of two weeks from today;

- iv) The arrears payable in terms of this order at the rate of Rs.2,000/- per month from 1 September 2013 shall be paid by the Respondent on or before 31 October 2016;
- v) We direct the Respondent to directly transfer a sum of Rs.5,000/- per month in the Bank account of the first Applicant with effect from July 2016 onwards. The amount shall be deposited in the account of the first Applicant on or before 15th of every month;
- vi) We clarify that if the amounts as aforesaid are deposited by the Respondent, the same will amount to sufficient compliance with even the order passed by the learned Magistrate under section 125 of the CrPC.;
- vii) Application is disposed of accordingly.

(A.A. SAYED, J.)

(A.S. OKA, J.)

katkam