

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

CIVIL APPLICATION NO. 373 OF 2015
IN
FAMILY COURT APPEAL NO. 175 OF 2015
WITH
CIVIL APPLICATION NO. 228 OF 2015
IN
FAMILY COURT APPEAL NO. 175 OF 2015

Mr. Sunil Omprakash Agarwal ... Applicant

V/s.

Meenu Sunil Agarwal ... Respondent

Mr. Ghazala Khan for the applicant/respondent in appeal.
Mr. B.B. Tiwari i/b. BBT Legal for respondent/appellant in appeal.

**CORAM : NARESH H. PATIL AND
PRAKASH D. NAIK, JJ.**

1st July, 2016.

P.C.

Heard. Learned Counsel appearing for the original respondent in Criminal Appeal No. 175/2015 namely Sunil K. Agrawal has referred to order passed by this court on 17th July, 2015 by Division Bench of this

Court (Coram: Ranjit More and Smt. Anuja Prabhudessai, JJ) which reads as under:

“ At the request of the learned Counsel appearing for the respective parties, adjourned to 23rd July, 2015 (HOB). Till then, parties shall maintain status-quo.”

2. By an order dated 14th October, 2015 in Family Court Appeal No. 175/2015, the Division Bench of this Court (Coram: V.M. Kanade and Dr. Shalini Phansalkar-Joshi, JJ) passed following order.

“ Heard. Admit.
Interim order to continue. Civil Application to be placed on Board on 26.11 2015.”

3. Learned Counsel submits that Civil Application No. 228/2015 was directed to place on Board on 26th November, 2015. The said civil application has not been heard so far. Application is still pending. Learned Counsel further submits that fresh application being Civil Application No.373/15 has been filed by Sunil Agarwal praying for following relief:-

“a) The appellant may be ordered and directed return to India and hand over Miss Disha Aggarwal born on 19th October, 2002, and minor son, Master Arnav Aggarwal,

born on 27th December, 2005, children to the applicant.

b) The Government of India and all the concerned authorities be ordered and directed execute the non-bailable warrant pending against the appellant and initiate necessary legal proceedings to bring the appellant and the minor children Miss. Disha Aggarwal born on 19th October, 2002, and minor son, Master Arnav Aggarwal, born on 27th December, 2005, back to India.

c) Suo-moto Contempt proceedings may be initiated against the appellant.”

4. The learned Counsel submits that the appellant herein, Meenu Agrawal flouted orders of the Family Court in total disregard of the proceedings initiated by the husband in the family court. She left India alongwith minor children whose custody was directed to be handed over to the husband. Learned Counsel submits that due to status-quo order, the applicant was unable to execute the order of non-bailable warrant issued by the Family Court by allowing the petition finally by judgment and order dated 23rd May, 2015. The Counsel submits that atleast the Court may clarify the order of the status-quo granted by this Court.

5. Learned Counsel appearing for the wife submitted that the

appellant in Family Court Appeal Mrs. Meenu Aggarwal is holding a responsible post in a leading company in the U.S.A. She on her own is taking efforts in bringing up children in America. The husband has not come forward to support her in terms of money so far, except filing proceedings against the appellant-wife. Learned Counsel submits that several proceedings are initiated in America and are pending in different forums relating to marital status and other connected issues. The children are brought up in the American culture. They are used to live in the said society. It is difficult for them to adjust with Indian way of living. Learned Counsel submitted that while praying for interim-relief/status-quo order, he specifically insisted for staying the execution of non-bailable warrant as at no point of time, the appellant wife desired to flout the orders of this Court.

6. We have perused the record and considered the submissions on the issues covering the subject Civil Application No. 228/2015.

7. As appeal was admitted by this Court, all the relevant issues raised by the parties factual and legal will be considered as and when the appeal is heard on merits, finally. Order of status-quo passed by this court would certainly mean that the judgment and decree granting

custody of children to husband was not to be acted upon in view of the fact that on the day of passing of judgment and order by Family Court, the wife and two children had already left and they were/are residing in United States of America.

8. Learned Counsel appearing for the appellant-husband submitted that at least he be permitted to get the non-bailable warrant executed. In the facts, we pass following order:

ORDER

i) The operation of order of status-quo/interlocutory order granted by this Court would mean that the order directing restoration of custody of children from wife to the husband was stayed. Rest of the part of the order of the Family Court is not stayed by this Court.

ii) Civil Application stands disposed of.

9. Family Court Appeal be listed for 'directions' next week.

(PRAKASH D. NAIK, J.)

(NARESH H. PATIL, J.)