IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

FAMILY COURT APPEAL NO. 14 OF 2016
AND
CIVIL APPLN. (O) NO.1503 OF 2015

Vinod S/o Harichand Chauhan
-vs-
Smt.Manjusha w/o Vinod Chauhan

Office notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders.

Mr. A.V.Khare, counsel for the appellant.
None for the respondent.

CORAM : SMT. VASANTI A. NAIK &
V. M. DESHPANDE, JJ.

DATE : 15.04.2016.

Heard.

ADMIT.

Call for record and proceedings.

CIVIL APPLN. (O) NO.1503 OF 2015

By this civil application, the applicant seeks an injunction restraining the respondent-wife from entering the matrimonial home, during the pendency of the Family Court Appeal.

Though the civil application was listed for hearing on 07/04/2016, none had appeared on behalf of the respondent and hence, the matter was adjourned for today. None appears on behalf of the respondent today also.

It is stated on behalf of the applicant that the parties are residing separately since the year 2012 and after the parties started residing separately, the respondent had lodged proceedings against the applicant under the provisions of Protection of Women From Domestic Violence Act, 2005. It is stated that the respondent had also joined the aged ailing mother of the applicant as a party to the proceedings under

the Act of 2005. It is stated that if the respondent is permitted to enter the matrimonial home, the applicant apprehends that there would be a threat to the health and safety of the applicant and his aged mother, who is suffering from heart ailment and hyper tension. It is stated that the applicant is regularly paying a sum of Rs.5,000/- that is liable to be paid to the respondent towards monthly maintenance.

After hearing the learned counsel for the applicant and on a perusal of the reply filed on behalf of the respondent, it appears that the injunction as sought by the applicant is required to be granted in the circumstances of the case. The applicant is paying the sum of Rs.5,000/- to the respondent towards monthly maintenance. It appears that the respondent had admitted in her cross-examination that she has received the household articles that were lying in the matrimonial home and hence there may not be any reason for the respondent to immediately rush to the matrimonial home on the pretext of removing the household articles from the matrimonial home. Since the respondent had filed proceedings against the applicant and his aged mother under the provisions of Protection of Women From Domestic Violence Act, there is some force in the submission made on behalf of the applicant that the applicant apprehends that similar proceedings could be filed by the respondent if the respondent is permitted to re-enter the matrimonial home.

Hence, in the circumstances of the case, we grant the relief sought by the applicant in this civil application on the condition that the applicant continues to pay the monthly maintenance regularly to the respondent, during the pendency of the Family Court Appeal.

The civil application is allowed in the aforesaid terms and disposed of.

JUDGE **JUDGE**

KHUNTE