

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

**CIVIL APPLICATION NO.334 OF 2016
IN
FAMILY COURT APPEAL NO.215 OF 2014**

Mrs. Nandini Satish Utekar ...Applicant

Versus

Mr. Satish Shantaram Utekar ...Respondent

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Mr. Sanjay P. Shinde for the Applicant.
Ms Shilpa A. Joshi for the Respondent.

**CORAM : A.S. OKA, AND
SMT. ANUJA PRABHUDESSAI, JJ.**

DATED: 20th JANUARY, 2017.

P.C:-

Heard the learned counsel appearing for the Applicant-wife and the learned counsel appearing for the Respondent-husband. The prayer in this Application is for grant of interim maintenance pending the final disposal of the Family Court Appeal. The Applicant-wife has taken an exception to the judgment and decree dated 19th June, 2014 by which marriage solemnised between the Applicant-wife and the Respondent-husband was annulled under clause (a) under Sub Section 1 of Section 12 of the Hindu Marriage Act, 1955. We have perused

the affidavits filed on record. In the reply filed by the Respondent-husband, he has denied that he is drawing monthly salary of Rs.50,000/-. He has stated that there is nothing convincing placed on record to show that the Applicant-wife has no source of income. As directed, the Respondent-husband has filed additional affidavit annexing thereto salary slips of his salary from July-2016 till December, 2016. The Respondent is an employee of Reliance Industries Limited.

2. The salary slip of December-2016 shows that gross earnings of the Respondent-husband were Rs.67,750.84 and total deductions were Rs.32,865.84. The gross earnings include medical reimbursement of Rs.19,592/- which will have to be excluded for the purpose of computing income of the Respondent-husband. If the said amount is excluded, the gross earnings of the Respondent-husband would be Rs.48,158/-. Perusal of the salary slips from July-2016 to October, 2016 shows that gross earnings of the Respondent-husband are in the range of Rs.47,000/- to Rs.52,000/-. Salary slip of November, 2016 shows gross earnings of Rs.78,278.46. Out of which Rs.28,242/- was LTA.

3. From perusal of salary slips from July-2016 to December-

2016, it can be safely inferred that the gross salary of the Respondent-husband is about Rs.48,000/-. In the salary slip for the month of December-2016, deductions of Rs.32,865/- have been shown. Only the deductions made on account of EPF contribution and income tax will have to be excluded for determining the quantum of maintenance. The other deductions are voluntary contributions made by the Respondent-husband.

4. Considering the EPF contribution and income tax deduction, a sum of Rs.8500/- will have to be deducted from gross earnings. After deducting the said amount, the net salary can be taken as Rs.39,500/-.

5. We, therefore, propose to fix the monthly interim maintenance at Rs.16,000/- which shall be payable by the Respondent-husband from 1st November, 2016 as the present application has been filed on 26th October, 2016.

6. Considering the facts of the case, no case is made out for granting separate amount towards the residential accommodation. We, accordingly, dispose of the application by passing following order:

ORDER

(a) We direct the Respondent-husband to pay interim maintenance to the Applicant at the rate of Rs.16,000/- p.m. with effect from 1st November, 2016 till the disposal of the Appeal;

(b) The amount payable for the month of November, December and January-2016 shall be paid on or before 31st March, 2017. From February-2017 onwards, the Respondent-husband shall regularly and punctually pay Rs.16,000/- p.m. to the Applicant-wife on or before 15th day of every calendar month;

(c) We direct the Advocate for the Applicant-wife to furnish details of the Bank Accounts of the Applicant to the Advocate of the Respondent-husband to enable the Respondent-husband to transfer the maintenance amount directly to the account of the Applicant-wife;

(d) The Application is disposed of in above terms.

(ANUJA PRABHUDESSAI, J.)

(A.S. OKA, J.)