

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**CIVIL APPLICATION NO. 1496 OF 2017
IN
WRIT PETITION NO. 8327 OF 2014**

Dr. Mrs. Sarika A. Ranade .. Applicant
vs.
Dr. Akshay A. Ranade .. Respondent

**WITH
CIVIL APPLICATION NO. 2829 OF 2016
WITH
CIVIL APPLICATION NO.252 OF 2015
WITH
WRIT PETITION NO. 8327 OF 2014**

Mr. S.S. Pathwardhan for Dr. Sarika Ranade.
Mr. A.J. Kandarkar for Dr. Akshay A. Ranade.

**CORAM : M. S. SONAK, J.
DATE : 23 AUGUST 2017.**

P.C. :-

- 1] Heard learned counsel for the parties.
- 2] In the light of certain subsequent developments, the main petition as well as the civil applications can be disposed of by the following order.
- 3] The petitioner-wife has challenged the order dated 3rd August 2012 made by the Family Court, Pune, to the extent, the order, had restricted the payment of maintenance from the date of application,

i.e., 1st September 2010 till the date of order, i.e., 3rd August 2012.

The petitioner-wife contends that there was no reason to restrict the maintenance only up to the date of the order and the maintenance ought to have been directed to be paid at least until disposal of the Marriage Petition No. PA-459 of 2010 in which the respondent-husband had applied for restitution of conjugal rights.

4] On 8th January 2016, this Court made the following order whilst granting Rule :

“1. Rule.

2. Notwithstanding the pendency of this petition, the petitioner, as permitted by the impugned order by itself is at liberty to file fresh application for interim maintenance. Mr.Patwardhan states that, without prejudice to the rights and contentions of the petitioner, such application will be made within a period of two weeks from today. If such application is made the Family Court is directed to dispose of the same as expeditiously as possible and in any case within a period of six months from the date such application is made. All contentions of all parties are kept open. Family Court need not be influenced by any previous orders made by it or the circumstance that rule has been issued in this petition.

3. The respondent, has offered to pay the following amounts voluntarily, by way of interim maintenance:-

a) Rs.1,00,000/- (Rupees One Lakh) on or before 12th January 2016;

b) Rs.20,000/- (Rupees Twenty Thousand) on or before 18th February 2016.

c) Again Rs.20,000/-(Rupees Twenty Thousand) on or before 18th April 2016.

d) Rs.10,000/-on or before 18th May 2016.

4. The respondent is directed to pay the aforesaid amounts as per the aforesaid payment schedule. This shall again be

without prejudice to the rights and contentions of the respondent in the matter.

5. *The parties assure the Court that they will make suitable arrangements in the matter of access along the lines indicated by this Court in its order dated 11th December 2015. Further, the respondent will have some reasonable access on Sia's birthday which is on 03rd February 2016. Such access shall however, be at Pune after school hours.*

6. *Liberty to apply."*

5] In pursuance of the aforesaid, the respondent-husband has paid an amount of Rs.1,50,000/- by way of interim maintenance without prejudice to his rights and contentions in the matter. Further, the petitioner-wife filed application dated 19th January 2016 before the Family Court seeking interim maintenance in pursuance of liberty granted by order dated 8th January 2016.

6] The Family Court, by order dated 18th July 2016 has awarded interim maintenance at the rate of Rs.20,000/ per month effective from 19th January 2016, i.e., date of application.

7] The respondent-husband urged before the Family Court that the amount of Rs.1,50,000/- paid by him in pursuance of the order dated 8th January 2016 is either required to be adjusted against the interim maintenance payable in terms of order dated 18th July 2016 or otherwise refunded to the respondent-husband. The Family Court

by observing that there were no directions for adjustment, did not accept the respondent-husband's contention. The respondent-husband, without prejudice to his rights, therefore, honoured the directions contained in order dated 18th July 2016. The respondent-husband has thereafter taken out Civil Application No. 2829 of 2016 seeking refund of Rs.1,50,000/-.

8] The petitioner-wife has also taken out Civil Application No. 1496 of 2017, *inter alia*, to seek a clarification that the amount of Rs.1,50,000/- has no nexus whatsoever with the issue of interim maintenance in pursuance of liberty granted by this Court in its order dated 8th January 2016.

9] In a sense, therefore, the two civil applications are complementary to one another or rather, set out the rival contentions in relation to the payment of amount of Rs.1,50,000/- by the respondent-husband to the petitioner-wife and their daughter.

10] In the meanwhile, Marriage Petition No.PA-459 of 2010 has itself been disposed of by the Family Court vide judgment and decree dated 16th December 2016. As against the same, the respondent-

husband has already instituted Family Court Appeal No. 56 of 2017 in this Court, which is pending admission.

11] Since, Marriage Petition No. PA-459 of 2010 has been disposed of, there is no point in pursuing Writ Petition No. 8327 of 2014, which challenges the interlocutory order dated 3rd August 2012 made by the Family Court. However, it is required to be clarified and in fact, even liberty is required to be granted to the petitioner-wife to challenge the order dated 3rd August 2012, by filing cross-objections or otherwise in Family Court Appeal No. 56 of 2017 instituted by the respondent-husband challenging the judgment and decree dated 16th December 2016 made by the Family Court, Pune, since such appeal is now a substantive appeal. Accordingly, such liberty is expressly granted to the petitioner-wife.

12] Further, it is clarified that in case the petitioner-wife's contention that her daughter were required to be granted maintenance even during the period 3rd August 2012 and 19th January 2016 is accepted, the amount of Rs.1,50,000/- paid by the respondent-husband will have to be adjusted as against the amount which the respondent-husband will have to pay by way of interim

maintenance during said period. However, in case, the petitioner-wife's contention fails, then the petitioner-wife will be required to refund the amount of Rs.1,50,000/- paid by the respondent – husband in pursuance of the order dated 8th January 2016. This clarification is sufficient to dispose of the two civil applications filed by the parties.

13] The petition and the civil applications are accordingly disposed of in the aforesaid terms.

14] It is clarified that all contentions of all parties are kept open to be decided in the substantive Family Court Appeal No. 56 of 2017.

15] Civil Application No. 252 of 2015 seeking stay does not survive and the same is also disposed of.

16] All concerned to act on the basis of authenticated copy of this order.

(M. S. SONAK, J.)