

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

**CIVIL APPLICATION NO. 256 OF 2015
IN
FAMILY COURT APPEAL NO. 155 OF 2015**

**Mr. Hasmukh Shukla. ..Applicant.
Vs.
Mrs. Vaishali Shukla. ..Respondent**

WITH

**CIVIL APPLICATION NO. 297 OF 2015
IN
FAMILY COURT APPEAL NO. 174 OF 2015**

**Mrs. Vaishali Shukla. ..Applicant.
Vs.
Mr. Hasmukh Shukla. ..Respondent**

**Mr. Harish Bhatia, for the Applicant in CAM 256/2015 and for the
Respondent in CAM 297/2015.**

**Mr. Pradip Chavan a/w. Mrs. Trupti Chavan i/b. Pradip Chavan & Asso. for
the Applicant in CAM 297/2015 and for the Respondent in CAM 256/2015.**

**CORAM : R. M. SAVANT, J &
SMT.SADHANA S. JADHAV,J
DATE : 20th JUNE, 2017**

P.C.

1 The above Civil Application No. 256 of 2015 has been filed by
the Appellant-husband who has filed the above Family Court Appeal No. 155
of 2015. The above Civil Application No. 297 of 2015 has been filed by the

Appellant-Wife who has filed Family Court Appeal No. 174 of 2015.

2 In so far as the Civil Application No. 256 of 2015 is concerned, by the said Application, the Appellant Husband has sought stay of the operation of the Judgment and Decree dated 6th May, 2015 passed by the learned Principal Judge of the Family Court, Mumbai in Petition No. A-521 of 2010. In so far as the Civil Application No. 297 of 2015 is concerned, the Applicant-Wife has sought enhancement of the maintenance granted to her son Ronak which is at the rate of Rs. 10,000/- to Rs. 15,000/-. By the impugned Judgment and Decree the Family Court, Mumbai has granted Decree of Divorce. The Family Court has also granted custody of the minor son Ronak to the Applicant/Appellant-Wife and has granted maintenance at the rate of Rs. 5,000/- per month towards the maintenance of minor son Ronak from the date of the Petition i.e. 23/2/2010 till April, 2015 and thereafter, at the rate of Rs. 10,000/- from the month of May, 2015 till Ronak attains majority. The Family Court has also directed the Appellant/Applicant-Husband to return the articles as per the list annexed to her Petition as Exh. C, D, E and F, except finger rings of 30 grams gifted to the Respondent by her parents.

3 In so far as the said relief, which has been granted by the Family

Court is concerned, it seems that an amendment was made to the Petition towards the fag end incorporating the prayer for return of the articles, which were listed in the said amendment. In so far as the finding on the said aspect is concerned, prima facie, it can be said that the said findings were not conclusive as regards the possession of the ornaments being with the husband. It is required to be noted that the Applicant/Appellant-Wife is working in Canara Bank as Clerk since last many years and therefore, she cannot be said to be a lay person who is not conversant with the procedure relating to the operation of the bank locker etc. It has been recorded by the learned Judge of the Family Court that there was no cross-examination by either side on the basis of the case that was sought to be asserted on either side. We are therefore, of the view that having regard to the findings recorded by the Family Court in the impugned Order, it would be just and proper to stay the direction for the return of the Articles as mentioned in the lists annexed at Exh. C, D, E and F, which have been directed to be returned vide clause 11 of the Operative part of the impugned Judgment and Order.

4 In so far as the other directions i.e. the custody of the child as well as maintenance to be granted to the child as directed by the Operative clause No. 6 and 7, we do not deem it appropriate to stay them. The above

Civil Application No. 256 of 2015 is allowed to the aforesaid extent.

5 In so far as the Civil Application No. 297 of 2015 is concerned, as indicated above by the said Civil Application, the Applicant/Appellant-Wife seeks enhancement of the maintenance of Rs. 15,000/-. The Applicant/Appellant-Wife as indicates above is working in a bank and her emoluments are to the tune of Rs. 47,000/-. The responsibility to look after the child is therefore, both of the husband as well as the wife. The child Ronak is now 13 years of age. The Family Court has modulated the maintenance, in as much as it has granted maintenance to Ronak between the period from 23/2/2010 to April, 2015 at the rate of Rs. 5,000/-. If Ronak is 13 years of age at present, his date of birth must be in the year 2004, he was therefore about 6 years of age in the year 2010 and 11 years of age in 2015. Hence, his needs can be said to be taken care of by the grant of Rs. 5,000/- for the period between 2010 till 2015. The Family Court from 2015 has directed the Applicant/Appellant-husband to pay maintenance of Rs. 10,000/- to Ronak till he attains majority. Since it is also the responsibility of the Appellant/Applicant-Wife to look after the son Ronak, it would imply that she would also have to spend some amount for him. In our view, therefore, the grant of Rs. 10,000/- to Ronak from the year 2015 as also grant of Rs.

5,000/- for the anterior period can be said to be just and reasonable maintenance for Ronak and therefore, there is need to enhance the same as claimed by the above Civil Application No. 297 of 2015. The above Civil Application No. 297 of 2015 is accordingly, rejected.

[SMT.SADHANA S. JADHAV,J]

[R.M.SAVANT, J]