

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 229 OF 2017
IN
FAMILY COURT APPEAL NO. 129 OF 2017

Mr.Manish M. Jethva .. Applicant

Vs.

Mrs.Mittal Manish Jethva .. Respondent

Ms.Sapna Bheda, for the Applicant.

Mr.Samarth S.Karmarkar i/b Ms.Supriyanka Maurya, for Respondent.

**CORAM : SMT. V.K.TAHILRAMANI &
M.S.KARNIK, JJ.**

12th OCTOBER, 2017

P.C. :

1. Heard learned Counsel for the applicant - husband and learned Counsel for the respondent -wife.

2. On 24/03/2017, Family Court No. 5, Mumbai allowed the application of wife seeking interim maintenance from the husband. Interim maintenance was granted to the wife at Rs.15,000/- per month. The applicant is seeking stay of the

said order. It is the case of the respondent-wife that she is a housewife and does not have any source of income.

3. The case of the husband is that she is gainfully employed and working in her father's family business of embroidery at Kandivali whereby she is earning Rs.25,000/-. Hence, she is able to maintain herself. However, no documentary evidence is there to support this statement. Learned Counsel for the respondent - wife stated that she is not having any source of income and she is totally dependent on the maintenance given by the husband. Before the Family Court, it was contended by respondent – wife that the husband is working in Adani Enterprises & he is earning Rs.40,000/- per month. As the applicant failed to produce his salary slips for the last 6 months & other documents, the Family Court accepted the contention of the wife regarding income of husband as Rs.40,000/- per month and granted Rs.15,000/- per month as maintenance. However, it is the case of the husband that he has lost his job hence he could not produce his salary slips. At

present he is working in 'MECADS Protection Management Private Ltd.' where his total emoluments for a year will be Rs.84,000/- which shows that per month he would be getting Rs.7,000/- per month. It is to be noted that execution proceedings were taken out by the wife and because the applicant could not pay the amount, he went to jail. After being in jail for some time, he managed to gather some amount from friends and relatives and deposit the same. The fact that he went to jail further supports the case that he has no money.

4. The documents show that he is employed in 'MECADS Protection Management Private Ltd.' where his income is Rs.7,000/- per month. In this view of the matter, warrant issued against the applicant is stayed. The order granting interim maintenance of Rs.15,000/- is also stayed subject to the applicant continuing to pay to the respondent an amount of Rs.5,000/- per month. The amount of Rs.15,000/- mentioned in the order at the Family Court is reduced to Rs.5,000/- per month during the pendency of this Appeal. He will continue to pay

Rs.5,000/- per month to the respondent. Any amount given earlier by the applicant to the respondent will be adjusted as per new calculation. If there are any earlier arrears as per new calculation, the same to be deposited within a period of 3 weeks from today. The respondent is allowed to withdraw the same. Application is allowed in above terms.

(M.S.KARNIK, J.)

(SMT. V.K.TAHILRAMANI, J.)