

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

CIVIL APPLICATION O. NO.84/2017
IN
FAMILY COURT APPEAL NO.312/2014
Sudhakar s/o Kisan Gaikwad
...Versus...
Smt. Jyotsna w/o Sudhakar Gaikwad

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri M.B. Agasti, Advocate for respondent /applicant
Shri D.M. Kale, Advocate for appellant/respondent

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

DATE : 15.03.2017

Vexatious applications are filed by the respondent-applicant time and again to canvass that the appellant-respondent is not depositing the amount of maintenance, as per the directions of this Court.

It is the case of the applicant that the respondent had not deposited 50% of the arrears of maintenance @ Rs.5,000/- per month. It is stated that a direction be issued against the respondent to deposit a sum of Rs.2,58,000/- in this Court towards the arrears of maintenance as per the orders passed by this Court and the orders passed in the proceedings under the provisions of the Protection of Women From Domestic Violence Act.

By our first order, dated 30.6.2014, we had granted stay to the order impugned in this family court appeal on the condition that the respondent deposits 50% of the arrears of maintenance @ Rs.4,000/-, which would include the amount of

Rs.2,000/- that was payable to the applicant under the provisions of the Protection of Women From Domestic Violence Act. On 29.10.2014, we had confirmed the order, dated 30.6.2014. Despite the fact that the respondent had deposited 50% of the arrears of maintenance @ Rs.4,000/- per month (inclusive of the amount that was liable to be paid to the applicant in terms of the order in the proceedings under the provisions of the Protection of Women From Domestic Violence Act) the applicant filed an application bearing Civil Application No.119/2015 for a direction against the respondent to pay 50% of the amount of maintenance as directed by the Family Court. Since we had not directed by our earlier orders that the respondent should deposit 50% of the arrears of maintenance as per the orders of the Family Court and had specifically mentioned that the respondent should deposit 50% of the amount @ Rs.4,000/- per month inclusive of the amount that was payable to the applicant under the provisions of the Protection of Women From Domestic Violence Act, we disposed of the application filed by the applicant on 20.3.2015. On 1.3.2016, again the applicant filed an application bearing Civil Application No.222/2016 for modification of our order, dated 30.6.2014. We modified the order to the limited extent that the respondent should pay a sum of Rs.6,000/- per month to the applicant from January, 2016. It is needless to mention that we did not modify our earlier order directing the respondent to deposit only 50% of the arrears of maintenance @ Rs.4,000/- per month (inclusive of the amount that was payable to the applicant as per the orders passed in the proceedings filed by the applicant under the provisions of the Protection of Women From Domestic Violence Act). Despite passing of half a dozen orders that are

referred to herein above, the applicant has again filed the present application for a direction to the respondent to pay sum of Rs.2,58,000/- in this Court. It is sought to be pointed out by this application that the applicant would be entitled to 50% of the arrears of maintenance @ Rs.4,000/- per month and also a sum of Rs.2,000/- per month, i.e., liable to be paid to the applicant, in terms of the order passed in the proceedings under the provisions of the Protection of Women From Domestic Violence Act. At the cost of repetition, we are required to make it clear that we have, by more than a couple of our earlier orders, directed the respondent to pay 50% of the arrears of maintenance @ Rs.4,000/- per month (inclusive of the amount, i.e., payable to the applicant in terms of the orders in the proceedings under the provisions of the Protection of Women From Domestic Violence Act). We find that by filing such applications, the applicant is not only vexing the respondent but is also vexing the Court. Similar applications are filed time and again by the applicant though our earlier orders are self explanatory. In our order, dated 20.3.2015, we had made it clear that if the applicant is not satisfied with the amount deposited by the respondent in this Court, the applicant is free to execute the orders in the execution proceedings. Instead of doing that, repeatedly applications are filed in this Court, for modification of our orders that are passed at the time of admission of the appeal and confirmation of the stay.

In the circumstances of the case, we dismiss the civil application with costs.

JUDGE

Wadkar

JUDGE