

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL APPLICATION NO. 351 OF 2018

(for stay)

WITH

CIVIL APPLICATION NO. 5315 OF 2018

(for withdrawal)

WITH

FAMILY COURT APPEAL NO. 2 OF 2018

Anilkumar s/o. Balaprasad Mantri .. Applicant

Versus

Jaishree d/o. Anilkumar Mantri .. Respondent

Mr.Gajanan G. Kadam, Advocate for the applicant.

Mr.D.Y. Nandedkar, Advocate for sole respondent.

**CORAM : PRASANNA B.VARALE &
S.M.GAVHANE, JJ.**

DATED : 30.07.2018

P.C. :-

1. This is an application filed at the instance of the applicant/respondent praying for stay to the implementation, operation and execution of the impugned judgment and decree dated 27.10.2017 in Petition No. C-10 of 2014 passed by the learned Judge of the Family Court,

Nanded. By order dated 18.04.2018, this Court was pleased to list the matter for final disposal on 02.05.2018 and in the meantime the record and proceeding of from the Family Court, Nanded was called for. Our attention is invited by the learned Counsel appearing for the respondent to the order dated 20.03.2018. The learned Counsel appearing for the applicant/appellant on instructions made statement that the applicant/appellant will deposit an amount of Rs.2,00,000/- (Rupees Two Lakhs) in this Court without prejudice to the contentions of the respondent. Accordingly, on the statement of learned Counsel for the appellant, the applicant/appellant was permitted to deposit an amount of Rs.2,00,000/-(Rupees Two Lakhs) in this Court. The applicant was permitted to move this Court in case of urgency.

2. Learned Counsel Mr. Kadam submits that as the matter is posted before the Court below for considering the execution proceedings on 02.08.2018, the applicant

prays for interim orders. Mr.Kadam, learned Counsel submitted that the applicant had deposited an amount of Rs. 2,00,000/- (Rupees Two Lakhs) in this Court. There is also application No.5315 of 2018 at the instance of respondent praying for withdrawal of the amount. It is stated in the application for withdrawal that Jaishree – the applicant is studying in 12th standard at Science College, Nanded and she requires amounts for the expenses such as academic fees, tuition fees, fees of extra classes, special class charges, charges for her conveyance, her necessities like clothing, uniform and other emergency expenses like medical expenses etc. Learned Counsel appearing for the applicant – Jaishree submitted that the appellant though is before this Court and praying for interim orders, had not deposited the amount due and payable against the appellant under the orders passed by the Family Court. The order of the learned Family Court is in the nature of money decree, as such the appellant ought to have deposited the entire amount due and payable. Learned Counsel Mr. Kadam

submits that the application for withdrawal is opposed by the appellant by filing affidavit-in-reply. Learned Counsel Mr. Kadam submitted that an affidavit is filed by the appellant in this Court on 11.04.2018 to submit that the appellant is ready to take custody of the respondent and also is ready to bear responsibility of father and also is ready to educate the respondent as per her will and wish. Learned Counsel Mr. Kadam submitted that it is apprehension of the appellant that the next friend of the respondent may mis-use the amount for his own purposes. As such, he opposes the withdrawal.

3. We are of the opinion that now as the appeal is ripened for hearing and the appellant is praying for interim order as per the liberty granted to him and at the same time the respondent had submitted an application for withdrawal of the amount on the ground that she would need financial assistance for her academic purposes and for her basic necessities, liberty can be granted to the respondent to withdraw part of the amount.

4. Respondent – Jaishree is permitted to withdraw an amount of Rs.1,00,000/- (Rupees One Lakh) out of amount of Rs.2,00,000/- (Rupees Two Lakhs) in this Court by the appellant. Respondent – Jaishree is directed to open a bank account in any nationalized bank at Nanded within one week from today. Respondent – Jaishree is permitted to withdraw an amount of Rs.50,000/- (Rupees Fifty Thousand) only, out of amount of Rs.1,00,000/- (Rupees One Lakh) to be deposited in the bank and to submit statement of her expenses against withdrawal of Rs.50,000/- (Rupees Fifty Thousand) only of her academic expenses. She need not submit statement for certain basic necessities and medical bills.

5. The Civil Application No.5315 of 2018 for withdrawal is disposed of accordingly.

6. The appeal is ripened/ready for hearing. It be posted for hearing disposal after three weeks i.e. on

16.08.2018.

7. By way of interim order, we grant interim stay to the order passed by the learned Judge of the Family Court impugned in this appeal till next date of hearing.

[S.M.GAVHANE, J.]

[PRASANNA B.VARALE, J.]