

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Amk

CIVIL APPLICATION NO. 150 OF 2017
IN
FAMILY COURT APPEAL NO. 151 OF 2017

Mrs. Vidya Yogesh Karankal .. Applicant

In the matter between

Mrs. Vidya Yogesh Karankal .. Appellant

Vs.

Mr. Yogesh Hiranman Karankal .. Respondent

Ms. Saloni M. Ghule for the Applicant/Appellant.

Mr. Mayur V. Faria for the Respondent.

CORAM : **A. A. SAYED AND**
K. K. SONAWANE, JJ.

DATE : **19th SEPTEMBER, 2018.**

ORAL ORDER (Per K. K. Sonawane, J.)

1. Heard learned Counsel for the Applicant-Appellant wife and learned Counsel for the Respondent-husband.

2. The present Application is preferred by the Applicant-Wife for maintenance pendente lite. It has been contended that the marriage of the Applicant and Respondent was solemnised on 25.04.2008 as per Hindu rites. After the marriage, the Applicant-wife joined the company of the Respondent-husband for cohabitation. She begotten one daughter during

the wedlock from the Respondent-husband. But there were marital discords resulting into separate residence of the spouses. The circumstances adumbrates that the spouses indulged in the multiple Court proceedings for restitution of conjugal rights, maintenance etc. The Respondent-husband also preferred a Petition under Section 13(1)(i-a) of the Hindu Marriage Act for dissolution of marriage. The Applicant-wife appeared in the divorce proceeding before the Family Court at Pune and raised objection. The learned Judge of the Family Court appreciated the entire circumstances on record and arrived at the conclusion that the Respondent-husband is entitled for the decree of divorce. Accordingly, the Principal Judge of the Family Court, Pune passed the impugned Judgment and granted the prayer for dissolution of marriage between the parties. Being aggrieved by the impugned decree of divorce, the Applicant-wife approached to this Court and preferred the Family Court Appeal No. 151 of 2017 to redress her grievances.

3. Pending the Appeal, the Appellant-wife moved the present Application seeking a subsistence allowance of Rs.20,000/- for herself and her minor daughter from the Respondent-husband. It has been alleged that the Applicant-wife since beginning is looking after her 7 year old school going daughter. The Respondent-husband did not ask for any custody or access of the minor daughter nor shown any inclination for payment of expenses

towards her school etc. According to Applicant-wife, the Respondent-husband is getting annual income not less than Rs.70,000/-. Moreover, his parents used to get pension amount. It is contended that in view of standard of living and the school expenses for minor girl, it is essential to grant Rs.20,000/- p.m. from the Respondent-husband towards interim maintenance.

4. The learned Counsel for the Applicant-wife submits that initially the Applicant-wife was in service as Lecturer in the college but now she is unemployed and she has no source of income. Her minor daughter is studying in SPG International Public School, Bhosari and the educational expenses, medical and other ancillary expenses of the minor daughter would accrue to Rs.7,000/- p.m. According to the learned Counsel, in view of family status and the standard of living of both the spouses, it would just and proper to grant maintenance of Rs.20,000/- p.m. to the Applicant-wife.

5. The learned Counsel for the Respondent-husband raised objection and submits that the Respondent-husband has no any source of income. He left his employment of Pune and started residing at his native place in Chalisgaon, Dist-Jalgaon. The Applicant-wife is well educated and she was employed as Professor in the college. She used to get Rs.40,000/- to

Rs.50,000/- p.m. In such circumstances, it would highly unjust and improper to direct the Respondent-husband to pay maintenance pendente lite to the Applicant-wife.

6. Having given anxious consideration to the arguments advanced on behalf of both sides, it reveals that the marital relations between the spouses are not in dispute. The learned Family Court, Pune passed the decree of divorce but the Applicant-wife agitated its validity and propriety by filing the Family Court Appeal before this Court and pending the Appeal, the Applicant-wife preferred the present Application. It is also not denied that pending the Divorce Petition before the Family Court, the Applicant-wife moved an application under Section 24 of the Hindu Marriage Act for interim maintenance. The learned Principal Judge of the Family Court partly allowed the application and granted interim maintenance of Rs.3,000/- p.m. in favour of the Applicant-wife towards the expenses of daughter. The learned Trial Judge of the Family Court considered the factual aspect of employment of the Applicant-wife for earning and held that she is not entitled to claim any interim maintenance from the Respondent-husband. However, the interim maintenance @ Rs.3,000/- was granted to incur the expenses of her daughter.

7. At this stage, the learned Counsel for the Applicant-wife vehemently submits that there is no source of income to the Applicant-wife and she is unemployed. She is not in service of any college. Therefore, she has a legal right to get subsistence allowance from the Respondent-husband. It is to be noted that except the bare version, there is no any document produced on record to show that the Applicant-wife had left the employment as lecturer of the college. Therefore, it would hard to believe that she has no source of income. However, the present Application is for maintenance pendente lite, it would essential to consider the issue to the extent of expenses of the minor daughter towards her livelihood, clothing, school etc. Definitely, it would subserve the purpose. The learned Family Court granted the interim maintenance of Rs.3,000/- p.m. in the year 2016. In view of escalation in prices as well as increase in the needs of the minor daughter day by day, her schooling expenses being a student of SPG International Public School, Bhosari and other expenses towards extra curricular activities, etc., we find it justifiable to exercise discretion for awarding Rs.7,000/- p.m. towards the interim maintenance for the daughter. It would not cause any prejudice or injustice to the Respondent-husband. It is not in dispute that the Respondent-husband has a degree in MCA (Master in Computer Applications). It is not in dispute that the minor daughter is taking education in SPG International Public School and is enrolled for classes in

badminton. The Respondent has admitted in his pleadings in the earlier proceedings that in the year 2007 he was earning a salary of Rs.8,000/- p.m. It is an admitted position that both the parents of the Respondent-husband retired as professors and are getting pension. It is the obligatory duty of the Respondent-husband to take care and incur expenses of his minor daughter. In view of attending circumstances on record, the amount of Rs.7,000/- p.m. (inclusive of Rs.3,000/- p.m.) towards interim maintenance appears to be reasonable and appropriate. Hence, the Application deserves to be allowed to that extent. Accordingly, the Application stands allowed partly. The Respondent-husband shall pay the amount of Rs.7,000/- p.m. towards the interim maintenance to the Applicant-wife to incur the expenses towards their minor daughter, pending the Appeal. Accordingly, the Civil Application stands disposed of.

[K. K. SONAWANE, J.]

Arjun
Machhindra
Kadam

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[A. A. SAYED, J.]