

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

**CIVIL APPLICATION NO.304 OF 2018
IN
FAMILY COURT APPEAL NO.197 OF 2015**

Eureka D/o Alfred Baptista .. Applicant

IN THE MATTER BETWEEN

Eureka D/o Alfred Baptista .. Appellant

V/s.

Joy Anthony Payaapply .. Respondent

Mr.G.S.Hegade i/b Ms.Pinky Bhansali for the applicant

**CORAM: K.K. TATED &
N. J. JAMADAR, JJ.**

DATED : DECEMBER 10, 2018

P.C. :

1 Heard.

2 By this Civil Application, Applicant wife is seeking direction against Respondent husband to comply the orders passed by this court dated 31.03.2016, 23.09.2016 and 07.03.2017.

3 In the present proceedings, this court by order dated 31.03.2016 (Coram: A.S.Oka and P.D.Naik, JJ) in Civil Application No.336 of 2015 in Family Court Appeal 197 of 2015

directed Respondent husband to pay the maintenance charges as per interim relief granted by Trial Court dated 12.02.2013 in Interim Application no.213 of 2012. The Trial Court by interim order dated 12.02.2013 directed Respondent husband to pay sum of Rs.10,000/- per month to the wife and Rs.5,000/- per month to the daughter. Thereafter this court by order dated 23.09.2016 (Coram: V.M.Kanade and Smt.Swapna S. Joshi, JJ.) directed Respondent husband to pay sum of Rs.15,000 to the wife as well as to the daughter respectively.

3 The learned counsel for the Applicant submits that though this court directed Respondent husband to pay maintenance charges @ Rs.15,000/- per month to the Applicant as well as her daughter, Respondent failed and neglected to pay the same regularly. He submits that on the date of filing Civil Application, i.e. in the month of September, 2018, sum of Rs.91,500/- was due and payable by the Respondent to the Applicant.

4 The learned counsel for the Applicant submits that in the interest of Justice, this Hon'ble Court be pleased to direct Respondent husband to pay maintenance as per the orders passed by this court from time to time i.e. @ Rs.30,000/- per month on or before 7th of each month.

5 During the course of argument, the learned counsel for the Applicant submits that though Applicant made prayer clause (c) and (d) for other reliefs in the present Civil Application, at present, he is not pressing the same. He submits that Applicant

may be granted liberty to take out appropriate proceeding for those two prayers. To that effect he has given in writing. Same is taken on record and marked 'X' for identification. Same is accepted. Liberty granted to take out appropriate proceeding, if they so desire, for prayer clause (c) and (d) and that be decided on its own merits.

6 On the other hand, the learned counsel for the Respondent husband submits that, is impossible for the Respondent to pay sum of Rs.30,000/- per month. He submits that he is financially dependent upon his brother in law. Therefore, there is no question of directing Respondent husband to pay the said amount on or before 7th of each month.

7 It is to be noted that by this Civil Application, Applicant wife is seeking direction to comply the orders passed by this court from time to time. In view of this fact and considering the orders passed by this court dated 31.03.2016, 23.09.2016 and 07.03.2017, we are satisfied that applicant has made out a case for allowing the Civil Application. Hence, following order is passed:

- a) Respondent husband is directed to clear the entire arrears of maintenance charges upto date within 8 weeks from today.
- b) Respondent husband is directed to pay maintenance charges to the applicant as directed by this court on or before 7th of each month henceforth.

c) Liberty granted to the applicant to prefer another application for prayer clause (c) and (d), if she so desires, and it will be decided on its own merits.

d) Civil Application stands disposed of accordingly.

e) No order as to costs.

(N. J. JAMADAR, J)

(K.K. TATED, J.)