

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

Civil Application No. 14776 of 2013
(In Second Appeal No. 0798 of 2013)

District : Ahmednagar

Mohangiri s/o. Savkargiri Gosavi. .. Applicant.

versus

Jayashree w/o. Mohangiri Gosavi. .. Respondent.

.....

Mr. Ankush N. Nagargoje, Advocate, for the applicant.

Mr. S.K. Shinde, Advocate, for the respondent.

.....

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 27TH FEBRUARY 2019

ORAL ORDER :

01. Second Appeal No. 0798 of 2013 has been admitted on 22-01-2019. However, no separate order was passed in this application which is filed for stay to the impugned judgment and decree.

02. Heard both sides.

03. It is not in dispute, that the parties are husband and wife. No doubt, as regards the petition for maintenance is concerned, it is stated that the husband has deserted the wife. However, the learned

trial Court who had dealt with another matter between the parties, on the same day, had recorded that the wife has failed to prove the desertion for getting restitution of conjugal rights. Under those circumstances, the second appeal came to be admitted. Now, the question is in respect of stay to the order. Maintenance has been granted by the learned trial Court at the rate of Rs. 2,000/- per month. Though the second appeal is admitted, the husband will have to maintain the wife. The said amount appears to be also appropriate taking into consideration the present price index. There appears to be some dispute as to the date of desertion. In Second Appeal No. 798 of 2013, what can be gathered is that the wife contended that the desertion is one year prior to the filing of the petition. The suit was filed on 11-06-2001. Therefore, as per the said order, it was expected that the defendant should pay maintenance from 11-06-2000. It is stated that maintenance of three years prior to filing of the suit was awarded.

04. Hence, the following order :-

The civil application is allowed in terms of prayer clause "A", subject to condition that the applicant - appellant shall pay maintenance at the rate of Rs. 2,000/- [Rupees two thousand] per month from 11-06-2000 uptill now, within a period of three

months, excluding the amount which is already deposited in this Court, before the Court dealing with Regular Darkhast No. 114 of 2012 and thereafter he shall go on paying maintenance at the said rate per month in the said proceedings, till the hearing and final disposal of Second Appeal No. 0798 of 2013.

(Smt. Vibha Kankanwadi)
JUDGE

.....