

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FAMILY COURT APPEAL (STAMP) NO.556 OF 2019
ALONG WITH
CIVIL APPLICATION (STAMP) NO.558 OF 2019

Ammol Jahawarlal Tiwaarrie.	]	... Appellant / Applicant
Versus		
Mrs. Anjali Ammol Tiwari, Alias	]	
Anjali Ghanshyam Awasthi, Alias	]	
Hemangi Ghanshyam Awasthi.	]	... Respondents

Mr. Kalpesh U. Patil for Appellant / Applicant.
None for Respondent.

**CORAM :- INDRAJIT MAHANTY &
SARANG V. KOTWAL, JJ.**
DATE :- 22 JANUARY, 2019

P. C. :-

1. This Appeal is preferred by the original Petitioner in P.A. No.804 of 2016 filed before the Family Court, Pune. The Petition was filed for dissolution of marriage under Section 13(1)(ia) of the Hindu Marriage Act, 1955 (for short, 'the said Act'). The Respondent is his wife. In the said petition P.A. No.804 of 2016, the Respondent - wife had preferred an application vide Exh.8 before the Family Court for

grant of interim maintenance of Rs.50,000/- per month for herself and their two daughters, under the provisions of Sections 24 and 26 of the said Act and had also claimed litigation expenses and expenses for her travel. The learned Judge of Family Court No.2, Pune, vide his order dated 25/10/2018, was pleased to allow the same. The Appellant herein has challenged the said order passed below Exh.8.

2. By the impugned order, the Appellant - husband was directed to pay an amount of Rs.17,000/- per month each to the Respondent - wife and their elder daughter Saniya and Rs.16,000/- per month to the younger daughter Paridhi from the date of the application i.e. from 29/11/2016. The Appellant - husband was permitted to adjust the amount paid by him as per the order dated 16/03/2017. That was the order by which he was directed to pay maintenance till the decision of application Exh.8. The Appellant - husband was directed to pay Rs.10,000/- as the expenses for the litigation and Rs.200/- per trip as travelling expenses to the Respondent. The Appellant - husband is challenging this order in the present Appeal.

3. We have heard Mr. Kalpesh U. Patil, learned Counsel for the Appellant - husband and we have perused the impugned order. After hearing the learned Counsel and after perusing the impugned order, we are of the considered view that the Appeal can be disposed of even at this stage by considering certain facts which are relied on by the learned trial Judge as well as the reasoning given by him in support of his conclusion.

4. Vide the said application at Exh.8, the Respondent - wife had submitted that the Appellant - husband was having sufficient means to make the payment as prayed for by her. Though the figures quoted by her in her submission and the figures mentioned by the Appellant - husband were not in consonance with each other; however, the Appellant - husband had admitted that he was working in MasterCard company as a Manager and his take home salary was Rs.1,36,773/- per month. According to him, he was spending Rs.1,09,137/- per month for paying EMIs of various loans. It was further his contention that he required Rs.15,000/- for his daily necessities. According to the Appellant - husband, the Respondent - wife was earning Rs.12,000/- per month by working as a Teacher. He

also claimed to have spent money for school fees and other expenses for their children.

5. As per the interim order passed during the pendency of the decision on the Application at Exh.8 in the said P.A.No.804 of 2016, the Appellant was directed to pay ad-hoc maintenance of Rs.35,000/- per month in favour of the Respondent and their daughters.

6. At the time of passing of the order, the elder daughter was 15 years of age and the younger daughter was 9 years of age. The learned Judge observed that the Appellant - husband had not given any evidence to show that the Respondent was working and earning. The learned Judge observed that the allegations against each other were the subject-matter which could be decided after recording the evidence. However, he has decided the issue of maintenance pending the decision on P.A.No.804 of 2016 on consideration of sound principles. He took into consideration important factors such as status of the parties, reasonable needs, the persons dependent on the husband, maintenance of Respondent's normal lifestyle, husband's

liabilities, normal expenses for the children etc. The learned Judge took into consideration that in November 2017, the Appellant - husband had drawn the gross salary of Rs.1,75,857/- and after deductions, his net pay was Rs.1,29,540/-.

7. It was an admitted fact that the Appellant - husband owned 2 BHK and 3 BHK flats, a car and a two wheeler vehicle. According to the Appellant - husband, he was repaying the loans taken for purchasing these flats.

8. The learned Judge has rightly observed that it was primarily the duty of the Appellant - husband to maintain his legally wedded wife and minor daughters as per his own status and standard. He could not live luxurious life ignoring the basic necessities of the Respondent and their daughters.

9. Considering all these aspects, the learned Judge fixed the maintenance amount of Rs.17,000/- per month each to the Respondent - wife and their elder daughter Saniya and Rs.16,000/- per month to the younger daughter Paridhi.

10. The learned Judge has also taken into consideration that the Respondent - wife had to travel from Dhanori, Pune every time for hearing of the case and deserved to be paid the travelling expenses besides the litigation expenses.

11. We have gone through the well-reasoned order of the learned trial Judge. We find that in the backdrop of the admitted position, the amount fixed by the learned trial Judge is quite reasonable and calls for no interference at this stage. The contentious issues raised in the main petition can be decided only after leading the evidence. However, we do not find any infirmity in the impugned order passed below Exh.8 in P.A.No.804 of 2016. We do not deem it appropriate to prolong this matter in this Court and cause delay in arriving at just decision after consideration of the evidence led by the parties before the trial Court.

12. In this view of the matter, we are not inclined to entertain this Appeal. Hence, the Appeal is dismissed and the impugned order dated 25/10/2018 passed by the learned Judge, Family Court No.2, Pune, below Exh.8 in P.A.No.804 of 2016, is confirmed.

13. In view of dismissal of Family Court Appeal, Civil Application (Stamp) No.558 of 2019 does not survive and stands disposed of as such.

(SARANG V. KOTWAL, J.)

(INDRAJIT MAHANTY, J.)