

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

CIVIL APPLICATION NO.529 OF 2019

IN

WRIT PETITION NO.13740 OF 2016

WITH

WRIT PETITION NO.1317 OF 2016

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Ms.Veena Gowda alw Mr.Rouble Sorkkar for
the applicant

Mr.Mahesh Vaswani a/w Ms.Dharini Nagda i/b
Ms.Nagma Tandon for the respondent in CA
No.529 of 2019 and for the petitioner in Writ
Petition No.1317 of 2016

CORAM : K. K. TATED, J

DATE : JULY 10, 2019

P.C.:

. Heard.

2 By this Civil Application, Applicant wife is
seeking direction against Family Court to
decide her Applications on its own merits.

3 The learned counsel for the Applicant
submits that in the present proceedings,

Respondent husband challenges the order passed by Family Court directing him to pay sum of Rs.22,000/- per month by way of maintenance charges. She submits that this court by order dated 18.08.2016 granted ad-interim relief on condition that Respondent husband to deposit maintenance charges in Family Court. This court further permitted Applicant wife to withdraw maintenance charges @ Rs.11,000/- per month. She submits that thereafter, matter was on board before this court on 24.11.2017. At that time, this court specifically recorded the fact that ad-interim relief passed by this court on 20.11.2017 stands vacated. She relies on paragraph 3 of the said order which reads thus:

"3. Learned advocate holding for Ms.Nagma Tandon tenders a copy of the letter dated 18th November 2017 addressed to this Court informing that she would be unavailable to attend this Court from 20th November 2017 till 30th November 2017 due to the medical reasons. Learned advocate holding for Ms.Nagma Tandon states that his client is not agreeable to pay any further amount or to deposit in this Court. He seeks

adjournment of the matter again though it was made clear that no further adjournment would be granted. No alternative arrangement is made by the petitioner in Writ Petition No.1317 of 2016 and the respondent in Writ Petition No.13740 of 2017 which is causing prejudice to the case of the petitioner in Writ Petition No.13740 of 2016 and the respondent in Writ Petition No.1317 of 2016. Ad-interim order passed by this Court on 13th November 2017 in Writ Petition No.1317 of 2016 is accordingly vacated."

4 The learned counsel for the Applicant submits that, Applicant filed Application under Order XI Rule 12 of the Code of Civil Procedure, 1908 dated 03.03.2017 before the Family Court at Pune in P.C. No.24 of 2014, for directing Respondent to produce additional documents. She submits that in that application, Family Court passed order on 04.12.2017 which reads thus:

"Heard Adv.Jategaonkar for Pet.

Both parties have filed Writ Petitions in Hon. Bom. H.C. and those are pending [i.e.

Writ No. 1317/2016 and 13740/16]. Hence this application will be heard after disposal of both Writ Petitions."

5 The learned counsel for the Applicant submits that Applicant wife filed Application dated 10.09.2018 for vacating the order dated 4.12.2017 passed by Family Court below Exhibit-58. She submits that Application was rejected by Family Court by order dated 30.11.2018 only on the ground that interim relief granted by this court on 18.8.2016 in Writ Petition No.1317 of 2018 is in force. She submits that though the Applicant pointed out to the Family Court that, by order dated 20.11.2014 (Coram: R.D.Dhanuka, J.) ad-interim relief granted by this court was vacated, then also Family Court rejected their Application below Exhibit-64. Hence, she filed the present Civil Application.

6 The learned counsel for the Respondent husband submits that this court already granted ad-interim relief by order dated 18.08.2016. Therefore, there is no question of allowing the present Civil Application.

7 Heard.

8 It is to be noted that in the present proceedings, though this court granted ad-interim relief by order dated 18.08.2016, same was vacated on 20.11.2014 (Coram: R.D.Dhanuka, J.). Therefore, order passed by Family Court below Exhibit-64 dated 30.11.2018 is required to be set aside directing Family Court to decide all the Applications filed by Applicant wife on its own merits. Hence, following order is passed:

A Civil Application is partly allowed.

B Family Court Pune is directed to decide all pending Applications filed by Applicant wife in P.C.No.24 of 2014 on its own merits.

C For other reliefs as stated in the present Civil Application, liberty granted to the Applicant to take appropriate steps.

(K.K.TATED, J.)