

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 145 OF 2018
IN
FAMILY COURT APPEAL NO. 92 OF 2018

Haribhau Sheshrao Narote .. Applicant

Versus

Vaishali Haribhau Narote .. Respondent

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- Mr. V.R. Patil for the Applicant
 - Mr. S.D. Kankurikar for the Respondent
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CORAM : AKIL KURESHI &
S.J. KATHAWALLA, JJ.

DATE : JULY 5, 2019.

P.C.:

1. This Civil Application is filed by the applicant - husband seeking stay of the judgment and decree dated 10.1.2018 passed by the Family Court, Pune in Petition No. A-958/2014.

2. In order to deal with this application, few basic facts would be necessary to note:-

In Family Court, the petition was filed by the husband seeking dissolution of marriage. The Family Court

while dismissing the petition by the impugned judgment, awarded permanent alimony of Rs. 50,000/- per month to the wife under Section 25 of the Hindu Marriage Act, 1955. The case of the applicant is that when his main proceedings were dismissed by the Family Court, no permanent alimony could have been awarded under Section 25 of the Hindu Marriage Act. In order to consider this contention, we have already admitted the Family Court Appeal. The question in this Civil Application is what interim order should be passed.

3. In this context, we have taken into account the provisions of Section 24 of the Hindu Marriage Act which permits the Court to award maintenance *pendente lite* to a party who is unable to sustain himself or herself and thereby would be put to disadvantage in defending oneself in such proceedings. Thus, the Court has ample powers pending the present appeal to award maintenance *pendente lite* to the wife. While considering the appellant's request for stay of the execution and operation of such judgment and decree, we would bear this in mind.

4. In the context of what should be a correct figure that the husband should pay to the wife by way of interim arrangement, we have taken into account their respective salaries (the wife admittedly is employed). The husband is present before the Court. He had showed his bank statement which indicates depositing of sum of Rs. 1.62 Lacs in his bank account by way of salary for the month of May 2019. He stated that from the salary, he suffers a deduction of Rs. 30000/- per month towards house building loan and further sum of Rs. 10000/- (approx) towards his PF contribution. His income tax deduction comes to about Rs. 51,000/- per month. The husband, thus, has a salary of Rs. 2 Lacs (apprx.) after income tax deduction. On the other hand, the wife was also present. Her Advocate presented before us her latest salary slip which shows gross income of Rs. 59,900/- after deductions for income tax, she receives gross income (including PF contribution) of approximately Rs. 55,000/-. Taking into account such rival incomes, in our opinion, a sum of Rs. 25000/- per month should be paid by the husband to the wife. The husband who was present before the Court agreed to this interim modification. Under

the judgment, the Family Court has awarded permanent alimony of Rs. 50000/-per month from the date of the petition by the husband which was 19.8.2014. The husband should, therefore, bear this payment of Rs. 25000/- per month from such date.

5. Under these circumstances, Civil Application is disposed of with following directions:-

- (i) The direction for payment of permanent alimony of Rs. 50000/- per month by the husband to the wife contained in the impugned judgment is stayed.
- (ii) This is however, on the condition that :
 - (a) the husband shall by way of interim arrangement pay sum of Rs. 25000/- per month to the wife w.e.f. 19.8.2014;
 - (b) continue to pay the same every month before 5th of every month till final disposal of the appeal or till further order and
 - (c) clear the arrears as on today latest by 31.10.2019 in four equal monthly installments each to be paid latest before the end of the month.
- (iii) If the appellant has already deposited any amount towards the permanent alimony, the same would be adjusted in the last installment.

6. Civil application is disposed of.

[S.J. KATHAWALLA, J.]

[AKIL KURESHI, J]