

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 134 OF 2018
IN
FAMILY COURT APPEAL (ST) NO. 13802 OF 2017

WITH
CIVIL APPLICATION NO. 102 OF 2018
IN
FAMILY COURT APPEAL (ST) NO. 13800 OF 2017

Sachin Rameshchandra .. Applicant

Versus

Bharati Rameshchandra .. Respondent

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- Mr. Amogh Singh i/by Mr. D.P. Singh for the Applicant
 - Mr. S.P. Kadam a/w Mr. Prashant Gadole for the Respondent
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CORAM : AKIL KURESHI &
S.J. KATHAWALLA, JJ.

DATE : JUNE 6, 2019.

P.C.:

1. These Civil Applications are filed by the husband seeking stay of execution and implementation of the impugned judgment and decree of the Family Court. Before the Family Court, the applicant - husband and the respondent - wife both had prayed for dissolution of marriage on the ground of cruelty by the respective opponents. The Family Court, by impugned judgment and

decree, dismissed the husband's petition but allowed that of the wife and granted dissolution of marriage on the ground of husband's cruelty to the wife. The Family Court also awarded a sum of Rs. 20,000/- per month for accommodation cost and Rs. 20,000/- per month by way of permanent maintenance in favour of the wife to be paid by the husband.

2. Learned counsel for the applicant - husband at the outset stated that he is not seeking stay of the decree of dissolution of marriage. He however argued at length on the prayer for staying the direction for maintenance and residence cost. He contended that the husband does not have adequate means to pay such cost. The Family Court has committed serious error.

3. On the other hand, learned counsel for the wife opposed this application contending that the husband has suppressed his real income, gave wrong and evasive answers before the Family Court. The husband has sizable income from his business. He also owned immovable properties, upon sale of which he had received sizable

amount.

4. The perusal of the impugned judgment of the Family Court and the documents on record would prima facie suggest that though previously wife who is a qualified I.T. Engineer was gainfully employed and receiving sizable salary, the Family Court has come to the conclusion that she was compelled to leave her job on account of the conduct of the husband. On the other hand, it appears from the record that the husband was engaged in the business of exports which he had been doing for the last many years. He was also dealing in share trading. We have perused his bank statements which reflected sizable amounts being deposited and withdrawn regularly clearly indicating his substantial turnover in the business of buying and selling shares. This apart, the admitted position is that the husband and the wife had jointly owned a house property, upon sale of which each partner took the share of Rs. 8.5 Lakhs (approximately). Additionally, his bank account reflected deposit of Rs. 44 Lakhs. Before the Family Court, the husband had not explained the source of this deposit. Before us, however, the

learned counsel has stated that this was 50% share of the proceedings of his sale of flat jointly owned by the husband with his brother. His bank account reflected transfer of Rs. 40 Lakhs (in two installments of Rs. 35 Lakhs and Rs. 5 Lakhs) soon after he received the said sum of Rs. 44 Lakhs. Before the Family Court, he did not clarify to whom and why such amount was transferred. Before us, his counsel tried to argue that the said amount was transferred in favour of his sister since the sister was real owner of the flat. Such explanation orally made simply cannot be believed.

5. The material on record would thus suggest that the husband has sizable income and other investments from which he should be able to satisfy the directions for maintenance issued by the Family Court.

6. The request for stay for said portion of the judgment and decree of the Family Court is, therefore, refused.

7. Civil Applications are disposed of.

[S.J. KATHAWALLA, J.]

[AKIL KURESHI, J]