

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.232/2019
in
Family Court Appeal No.41/2019

Shobha Sanjay Talekar & Ors. Applicants

Vs.

Sanjay Chandrakant Talekar & Ors. Respondents

Mr. Rajesh A. More for the Applicants

**CORAM: K.K.TATED &
SARANG V. KOTWAL,JJ.**

DATED : DECEMBER 6, 2019

P.C.

1 Heard. The learned counsel for the Applicants submits that the Respondents are duly served. He has filed Affidavit of Service dated 07.11.2019. He submits that Respondent No.1 is duly served by hand delivery. To that effect he has made averments in para 2 of the Affidavit of Service. In spite of service, none appeared of the Respondent.

2 By this Civil Application the Applicant is seeking direction against the Respondent husband to pay interim maintenance of Rs.10,000/- till hearing and final disposal of the Family Court Appeal.

3 The learned counsel for the Applicant submits that in the present proceedings initially, the Applicant has filed petition under sections 18 and 20 of the Hindu Adoptions and Maintenance Act 1956 before the Family Court, Pune being Petition No.C-29/2012. He submits that the Family Court, vide its judgment and decree dated 03.11.2018 granted sum of Rs.10,000/- p.m. maintenance to the child Atharva. He submits that the Family Court has rejected the wife's application for maintenance. Hence, the Family Court Appeal.

4 The learned counsel for the Applicant submits that during pendency of Petition No.C-29/2012 before the Family Court, Pune the Applicant had made an application below Exhibit- 5 for maintenance which is allowed by the Family Court vide order dated 17.12.2012. The operative part of the said order reads thus:

ORDER

"1. The application is partly allowed.

2. The Respondent No.1 do pay interim maintenance to the Petitioner No.1/wife @ Rs.10,000/- per month and @ Rs.5,000/- per month to the Petitioner No.2/child since day of presentation of the application i.e. since 08.10.2012 till the disposal of the petition.

3. The Respondent No.1 is directed not to dispose off any of his immoveable property or to create any third party interest on his property, till the disposal of the petition.

4. Remaining prayers of the petitions will be decided along with main petition."

5 The learned counsel for the Applicant submits that in the interest of justice, pending the hearing and final disposal of the First Appeal, this Hon'ble Court be pleased to direct the Respondent husband to pay sum of Rs.10,000/- by way of maintenance.

6 Considering the submissions made by the learned counsel for the Applicant and the order dated 17.12.2012 passed by the Family Court below Exhibit- 5 in Petition No.C-29/2012, we are satisfied that the Applicant has made out a case for allowing the Civil Application.

7 Hence, following order is passed:

- a. The Respondent husband is directed to pay sum of Rs.10,000/- to the Applicant wife from April 2019 from the date of filing the Civil Application till hearing and final disposal of the Family Court Appeal towards maintenance charges.
- b. The Civil Application stands disposed of accordingly.
- c. No order as to costs.

(SARANG V. KOTWAL, J.)

(K.K.TATED, J.)