

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE SIDE**

**CIVIL APPLICATION NO.147 OF 2019  
IN  
FAMILY COURT APPEAL NO.98 OF 2009**

**Anupam Anand**

**... Applicant**

**IN THE MATTER OF:**

Vivek Anand

... Appellant

Vs

Anupam Anand

... Respondent

Mr.ZubinBehramkamdin with Mr.Darshan mehta & Ms.Shivangi  
Agarwal i/b M/s.Dhruve Liladhar & Co. for the Applicant

Mr.Rajiv Patil, Senior Advocate i/b Ms.Madhubala Shetty for  
Respondent / original appellant

**CORAM: AKIL KURESHI &  
S.J. KATHAWALLA, JJ.**

**DATED: AUGUST 2, 2019**

**P.C.:**

1. This Civil Application is taken out by the applicant – mother of one Siya for a direction to the respondent – father of the daughter I.e., her husband, to reimburse the expenses incurred by her and her family for the daughter's education. The Family Court Appeal arises out of the judgment of the Appellate Court dated 31.12.2008, the operative portion of which reads as under:

“The Petition is dismissed. However, the Respondent is directed to return two pay orders of Rs.10,000/- sent by Petitioner and she is further directed to sign RBI Bonds in the joint name of the Petitioner and Respondent and Petitioner is directed to reinvest the amount in the name of the minor daughter Siya.

The counter claim of the Respondent is partly allowed.

The petitioner is directed to return the jewellery and other valuable to be Respondent as per the list Exh.30, except the items marked as A,B,C,D And E,

The Petitioner is directed to provide residential accommodation to the Respondent suitable to his status.

The Claim of Respondent for maintenance of herself is rejected.

**The petitioner is directed to pay Rs.30,000/- per month towards the maintenance of daughter – Siya till she attains majority.**

List of returned jewelery shall form, part of the Decree.  
A Decree be drawn up accordingly.”

2. The Family Court Appeal has been filed by the husband. He sought stay of the operation of the judgment of the Family Court by filing Civil Application No.155 of 2009. The Civil Application came to be disposed of by Division Bench of this Court by order dated 9.7.2010 which reads as under:

“1. By this application in effect stay of the order passed by the Family Court directing the Appellant to pay Rs.30,000/- per month towards the maintenance of daughter-Siya till she attains majority is prayed. Counsel appearing for the Respondent on instructions states that the Respondent is not interested in the amount or the arrears, as required to be paid in terms of the impugned decision at this stage. However, the Respondent would be more than content if the

Appellant were to take the complete responsibility of making provision for school fees and tuition fees of the minor daughter including of her sports activities, which she intends to pursue and is made available in the Bombay Gymkhana and Willingdon Club, of which the Appellant-husband is a member.

2. It is not in dispute that since January, 2010, the Appellant has paid all the school fees and tuition fees so far. Copies of the receipts of such payments, whichever are available, will be made over to the Respondent.

3. Considering the fair stand taken by the Respondent and willingness shown by the Appellant-husband to continue to discharge his responsibility of providing quality education and sports facility to the minor daughter by paying school fees as well as tuition fees, as may be required from time to time, in our opinion, the order as passed by the Family Court dated 31<sup>st</sup> December, 2008 deserves to be modified to that extent. The Appellant who is present in court, assures to abide by the above arrangement, which is presently in vogue until further orders. That assurance is accepted.

4. This interim arrangement shall operate during the pendency of the appeal or such other order to be passed by the Court on formal application being moved by the parties.

5. Application disposed of accordingly.”

3. Thus, as per this order, the Family Court order, pursuant to which the appellant had to pay a sum of Rs.30,000/- towards maintenance of the daughter, was not to be implemented upon the appellant agreeing to take complete responsibility of providing for the school fees, tuition fees of the minor daughter including her sports activities at Bombay Gymkhana and Willingdon Club.

4. This interim arrangement worked out quite satisfactorily for several years. The disputes however surfaced when the appellant raised a demand of sum of Rs.32,09,068/- which was towards Siya's tuition fees and other expenses for the first year of her course in Oxford University. She had enrolled herself in the year 2014 for a 3 year course at the said University. At the end of the period of 3 years, this amount increased to approximately Rs.88 lakhs. The appellant was unwilling to pay the same upon which this application has been filed.

5. Having heard the learned Counsel for the parties, we recall that it was recorded by this Court in the said order dated 19.7.2010 that the appellant had agreed to carry the responsibility of providing quality education, sports facilities to the minor daughter by paying school fees, tuition fees from time to time. In lieu thereof, the appellant had not insisted on execution of maintenance sum of Rs.30,000/- awarded to the daughter.

6. This order is silent on upto what period the appellant would continue to do so. However, when one looks at the very order of the Family Court, the direction for payment of Rs.30,000/- per

month for maintainance of the daughter was till she attained majority. The statement made before the Court recorded in the said order dated 19.7.2010 and the arrangement that was worked on the basis of such statement, therefore, must be seen in light of the base order out of which the appeal arises and in context of which the arrangement was made. It is not necessary for us to go into the contentions of the learned Counsel for the appellant that even after crossing the age of minority, the father would continue to be responsible to financially support the son or the daughter, as the case may be. This is so because the Family Court order itself against which the Family Court Appeal is filed, restricts the liability of the father to pay maintainance to the daughter till she crossed the age of majority. It is also doubtful whether the arrangement as recorded by the Court in the order dated 19.7.2010 would include education in foreign university, without the father having specifically consented to pay the expenditure for the same. It is therefore not possible to give the direction as prayed for.

7. We had tried to reason with the father whether legally liable to pay or not, out of love and affection for his daughter, he would like to contribute a part of the expenditure already incurred by the

mother's family. His counsel conveyed that his financial condition does not permit him to make larger contribution and in any case, he has been paying for the daughter's club charges and membership for such clubs.

8. We close the issue at this stage and Civil Application is disposed of.

9. The Family Court Appeal itself is old and it be placed for final hearing on 6.9.2019.

**(S.J. KATHAWALLA, J.)**

**(AKIL KURESHI, J.)**