

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

**CIVIL APPLICATION NO.230 OF 2018
IN
FAMILY COURT APPEAL NO.145 OF 2018**

Smt.Kiran Deepak Verma Appellant/
Applicant
versus

Deepak Laxminarayan Verma ... Respondent

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- Mr.Prakash Dhopatkar a/w Mr.Santosh Vhatkar & Associates,
Advocate for Appellant/Applicant.
- Mr.Jeet Gandhi, Advocate for Respondent.

**CORAM : AKIL KURESHI &
SARANG V. KOTWAL, JJ.
DATE : 20th MARCH, 2019.**

P.C. :

1. For passing interim order, we record brief reasons.
2. This Appeal is filed by the wife challenging the judgment of the Family Court in Petition No.E-299 of 2012 dated 23/01/2018, under which her application for maintenance u/s 125 of the Code of Criminal Procedure, was rejected. The Family Court noted that the wife has been enrolled

as an Advocate and that after separation from the husband, she had maintained herself from her own income. On the other hand, the husband had produced his income tax returns from which the Family Court concluded that the husband's income was not considerable. We may record that husband as well as wife, both suffer from certain physical disabilities.

3. The husband had filed income tax returns for the assessment year 2015-2016 to assessment year 2017-2018 showing diminishing income. For the year 2015-2016 his gross total income is Rs.2,35,000/-. Thus, it cannot be said that the husband did not earn any income at all. Further, in the examination-in-chief filed by the wife before the Family Court, she had made following allegations;

“7. I, say that the Respondent herein above is facing trial under section 494 of IPC i.e BIGAMY in the Court Room No. 26, Borivili, Mumbai and still happily and successfully leading third married life a women by name Smt. Neelu Deepak Verma (maiden name-Miss Neelu

Bhaiyalal Sharma, resident of Varanasi, U.P) and given birth a female child from the said third wedlock by name Disha Deepak Verma, to disclose the same I made correspondences with concerned nursing home and concerned Govt. authorities whereunder documents has been received as birth certificate issued by Priya Nursing Home, Varanasi, U.P and birth record issued by Registrar of Birth and Death record maintaining Dept., Nagar Nigam, Varanasi, U.P, whereas I am denied my legitimate rights, that means the Respondent time and again trying to mislead the Court of Law. In support of the statements as above, annexed hereto are the copy of the Birth Certificate issued by Priya Nursing Home, Varanasi, U.P and birth record issued by Registrar of Birth and Death record maintaining Dept., Nagar Nigam, Varanasi, U.P. and marked as Exhibit-C and Exhibit-D.”

4. In the cross examination of the wife, on this aspect there was no challenge made to the wife. According to wife, the husband is residing with another woman from which cohabitation two children are born. On this vital aspect, the husband has not carried out any cross-examination before the

Family Court. We also find that the wife in her deposition contrary to what has observed by the learned Judge of the Family Court, admitted to having sufficient income to sustain herself.

5. Under such circumstances by way of interim relief, the Respondent-Husband is directed to pay interim maintenance of Rs.3,000/- per month, which would be over and above, the amount of Rs.1,000/- he has to pay in the proceedings under the Domestic Violence Act. This direction shall take effect from the date of this order.
6. Civil Application stands disposed of.
7. Learned Counsel for the Respondent prays for stay of this order. Request is refused.

(SARANG V. KOTWAL, J.)

(AKIL KURESHI, J.)