

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FAMILY COURT APPEAL NO. 2 OF 2018
WITH
WRIT PETITION NO. 13366 OF 2017**

Sanjay R. Wadar ... Appellant/Petitioner
V/s.
Saraswati S. Wadar ... Respondent

**AND
CIVIL APPLICATION NO. 2 OF 2018
IN
FAMILY COURT APPEAL NO. 2 OF 2018**

Mr. Arif Menon i/b Mr. K.S. Misra for the Appellant/Petitioner.
Ms Shriya Gune i/b Mr. Sagar Ambdekar for the Respondent.

**CORAM : AKIL KURESHI &
S.J.KATHAWALLA, JJ.
DATE : OCTOBER 4, 2019.**

P.C.

1] The family court appeal is filed by the husband challenging the judgment and order of the Family Court, Solapur dated 29.7.2017 granting a decree of restitution of conjugal rights to the respondent - wife. Till the conjugal rights are restituted, the appellant- husband was directed to pay Rs.15,000/- per month to the respondent - wife.

2] The writ petition is also filed by the husband challenging the order of the Family Court, Solapur dated 2.7.2016

dismissing his petition for dissolution of marriage on the ground that he had not complied with the order of Family Court dated 4.12.2013 of payment of interim maintenance of Rs.5000/- per month to the wife.

3] Pending these proceedings, we had directed the husband to clear the arrears as per the Family Court orders. Learned Counsel for both sides agree that such amounts have already been paid over to the wife. The figure comes to Rs.4.60,000/- approximately. In that view of the matter, we are inclined to remand both the proceedings to the Family Court for fresh consideration and disposal in accordance with law. For such purpose, the judgment dated dated 29.7.2017 challenged by the husband in family court appeal is set aside. The wife's petition for restitution of conjugal rights is revived and placed back before the Family Court. Likewise, the judgment dated 2.7.2016, which is challenged by the husband in writ petition, is also set aside. His petition for dissolution of marriage is revived and placed back before the Family Court. Both proceedings shall be consolidated and disposed of by the Family Court in accordance with law.

4] We record the statement of Counsel for the husband that husband is working in O.N.G.C. and his current gross salary is of Rs.67,000/- approximately. A sum of Rs.20,000/-, by way of interim maintenance to the wife pending such proceedings before the Family Court, would be appropriate. From the date of this order, therefore, the husband shall continue to pay the sum of Rs.20,000/- per month to the wife by way of interim maintenance pending the proceedings before the Family Court. We have not expressed any opinion on the merits or demerits of the rival claims, which shall be decided by the Family Court unmindful of the observations now made in this order.

5] In view of the above, the appeal and petition are disposed of accordingly.

6] In view of disposal of the family court appeal, Civil Application No. 2 of 2018 does not survive and the same is disposed of accordingly.

(S. J. KATHAWALLA, J.)

(AKIL KURESHI, J.)