

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 339 OF 2018
IN
FAMILY COURT APPEAL NO. 25 OF 2014

Mamta Vilas Dalvi .. Applicant

Versus

Vilas Yashwant Dalvi .. Respondent

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- Ms. Seema Sarnaik for the Applicant
 - Mr. Deepak Jadhav for the Respondent
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CORAM : AKIL KURESHI &
S.J. KATHAWALLA, JJ.

DATE : AUGUST 2, 2019.

P.C.:

1. This Civil Application is filed by the applicant – wife seeking enhancement in the maintenance to be paid by the respondent – husband pending the appeal. Learned counsel for the applicant pointed out that after marriage in the year 2007, husband and wife resided for some time at Abu Dhabi where the respondent was working. Later on dispute started between the parties. Since then, the wife is residing in India and the husband continued to live in Abu Dhabi.

2. The record would suggest that the Family Court has awarded maintenance of Rs. 65,000/- per month to be paid by the husband to the wife. Admitted position is that the husband had paid the same and there are no arrears as of now. The wife seeks enhancement on the ground that the income of the husband is sizable, that the maintenance was fixed in the year 2013 and further the same should be enhanced and lastly that no separate amount for residence has been awarded.

3. The material on record would suggest that similar attempt was made by the present applicant twice earlier. Her Civil Application No. 36 of 2014 was disposed of by order dated 30.1.2014. Only one prayer i.e restraining the husband from selling out his residential property in Mumbai was granted. The request for enhancement was refused. Once again, she filed Civil Application No. 115 of 2015 inter alia praying for enhancement which was also dismissed on 21.9.2016. This is a third attempt for enhancement of maintenance.

4. We do not find any ground for entertaining this Civil Application. Quite apart from the applicant not bringing on record any major changes in circumstances so as to warrant enhancement in the maintenance, we also noticed that the applicant herself is a qualified person holding the decree of B.Com. and MBA. Admittedly before 2007, when she migrated to Abu Dhabi, she was gainfully employed in a company. It is difficult to understand how she still remains unemployed right from the year 2007 till date. In fact, the case of the respondent is that she is gainfully employed. He has produced documents showing her involvement in operating a company. The husband claims that the said company is of the sister-in-law of the applicant. We also noticed that sufficient maintenance has already been awarded by the Family Court. At this stage, by way of summary nature, we are not inclined to enhance maintenance pending appeal. Civil Application is, therefore, dismissed.

[S.J. KATHAWALLA, J.]

[AKIL KURESHI, J]