

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.346 OF 2018
IN
FAMILY COURT APPEAL NO.88 OF 2018**

Harshala Prashant Mohite	...	Applicant
versus		
Prashant Manohar Mohite	...	Respondent

Mr. Ajit Tambe, for Applicant.
Mr. Sangramsingh Yadav, for Respondent.

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

DATE: 26th JULY, 2019

P.C.:

1. This Application is filed by the wife seeking interim maintenance at the rate of Rs.20,000/- per month till disposal of the Family Court Appeal. The Family Court Appeal is filed by the wife challenging the judgment of the Family Court granting dissolution of marriage to the Respondent. The record would show that she is receiving the maintenance of Rs.5,000/- per month under the order passed by the Family Court plus a sum of Rs.1,500/- per month under the order passed under Section 125 of the Code of Criminal Procedure, 1973. She has therefore, requested that pending the Family Court Appeal, by way of interim maintenance, the Respondent-husband may be directed to pay a sum of Rs.20,000/- every month.
2. The Respondent is an Assistant Teacher employed in a grant in aid school.

He has filed Reply to this Civil Application in which he has contended that his salary is of Rs.45,112/-, out of which he has to repay two loans, which the Counsel stated he has taken for house building. He pays the installments of Rs.10,000/- and Rs.12,000/- for repayment of such loans with interest.

3. At our request, learned Counsel for the Respondent had made available the latest salary slip of the Respondent for the month of May, 2019, which is taken on record and marked 'X' for identification. His salary slip shows that he draws a basic salary of Rs.52,000/-. With allowances such as DA and HRA, his gross salary comes to Rs.60,840/-, out of which he deposits Rs.5,000/- every month towards PF. There are summary deductions of professional tax etc., which are negligible. His net salary shown to Rs.55,530. The amount of Rs.5,000/- deducted from the salary of the Respondent by way of GPF contribution, cannot be seen as a reduction in his salary. It is in the nature of his savings in future. However, this salary slip does not take into account his income tax liability, which the employer may be deducting separately. Be that as it may, Rs.5,000/- towards the GPF contribution would more than offset the income tax liability the Respondent may have. We therefore, proceed on the basis that his net salary is Rs.55,000/- per month.

4. Whatever be his financial planning, providing a sum of Rs.6,500/- per month to the wife is meager. He has not stated in his Reply any liability other than the repayment of the loans. Learned Counsel for the Respondent did orally try to suggest

that he supports his aged parents. However, in absence of any averments in the Affidavit in Reply, we cannot take note of such oral contention.

5. The loan installments may be one of the relevant factors, cannot be a decisive factor. At the end of the day, the Respondent is building his capital, for which he is paying installments. He cannot take shelter under such installments to totally deny reasonable support to his wife. There is nothing on record to suggest that the wife has any other source of income. She is stated to be pursuing the Law, which the Respondent has not seriously disputed. Considering the facts and circumstances of the case, it is ordered that the Respondent shall pay by way of interim maintenance a sum of Rs.15,000/- per month to the wife till the disposal of the Family Court Appeal. This would subsume the sum of Rs.6,500/- being paid to her presently. This will take effect from the date of the Civil Application. The Civil Application is accordingly disposed of.

(S.J.KATHAWALLA, J.)

(AKIL KURESHI, J.)