

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2585 OF 2018

IN

FIRST APPEAL NO.841 OF 2018

Mrs. Sarika w/o Mahendra Sureka ...Applicant

vs.

Mrs. Kusumlata W/o Rajkumar And Anr. ...Respondents

WITH

CIVIL APPLICATION NO.1725 OF 2018

IN

FIRST APPEAL NO.812 OF 2018

Mrs. Kusumlata W/o Rajkumar ...Applicant

vs.

Mr. Mahendra s/o Rajkumar Sureka And Anr. ...Respondents

WITH

CIVIL APPLICATION NO.2063 OF 2018

IN

FIRST APPEAL NO.811 OF 2018

Mr. Mahendra, s/o. Rajkumar Sureka ...Applicant

vs.

Mrs. Kusumlata W/o Rajkumar And Anr. ...Respondents

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Ms. Gauri Godse, i/b. Mr. Sumit Kothari, for the Applicant in CAF/2585/2018, for the Appellant in FA/841/2018 and for Respondent No.2 in FA/811/2018, CAW/2063/18, FA/812/2018 and CAW/1725/2018.

Mr. Anand Mishra, a/w. Mr. Ashok M. Sarogi, for the Applicant in CAF/1725/2018 and for the Appellant in FA/812/2018 and for Respondent No.1 in CAF/2585/2018 and FA/841/2018.

Mr. Prajot H. Jaggi, a/w. Mr. Prashant J. Rai and Mr. Sachin Agwane, for Applicant in CAF/2063/2018, for the Appellant in FA/811/2018, for

Respondent No.1 in CAF/1725/2018.

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CORAM : S.C. GUPTE, J.

DATED : 3 MARCH 2020

P.C. :

. These first appeals challenge a judgment and decree passed by the Bombay City Civil Court at Dindoshi, Mumbai in S.C. Suit No.1560 of 2011 on 8 January 2018. They are in the nature of cross-appeals. The appeals have been admitted. The civil applications seek stay of the impugned judgment and decree. After the parties are heard on the civil applications, it is agreed between the parties that the civil applications may be disposed of in terms of the following order, which shall operate pending hearing and final disposal of the first appeals, and it is accordingly ordered as follows :

(i) Respondent No.2 in First Appeal No.841 of 2018 shall deposit rent at the rate of Rs.55,000/- per month for the first year commencing from 1 April 2020 towards provision of alternative accommodation to the Appellant herein. In addition to this rent, five months' rent towards security deposit for enabling the Appellant to arrange for a suitable alternative accommodation to her as well as one month's rent towards brokerage charges, shall also be deposited by Respondent No.2 before this Court;

(ii) The amount of Rs.9,90,000/-, computed accordingly, shall be deposited by Respondent No.2 in this Court latest by 1 April 2020 with intimation to the Petitioner;

(iii) Respondent No.2 shall further deposit at the end of each six monthly period during the pendency of the first appeals, a further sum representing further six months' rent for the alternative accommodation to be availed of by the Appellant herein. Such rent shall be deposited with effect from 1 October 2020 and shall be calculated by taking into account annual increment at the rate of 5% of the original amount (i.e. 55,000/-) for each succeeding year;

(iv) Respondent No.1 to First Appeal No.841 of 2018 undertakes to the Court to guarantee the deposit referred to above by Respondent No.2. In support of her guarantee, Respondent No.1 shall deposit in this Court on or before 1 April 2020, a sum of Rs.20 lakhs. The amount shall be invested by the Registry in suitable fixed deposit/s of nationalised bank/s, initially for a period of twelve months and renewal thereafter from time to time, so as to abide by any further order that may be passed in the first appeals herein;

(v) Subject to Respondent Nos. 1 and 2, respectively, depositing in this Court by 1 April 2020 the amounts of Rs.20 lakhs and Rs.9.90 lakhs, as noted above, the Appellant shall vacate the existing accommodation held by her latest by 1 May 2020. It will be for the Appellant to arrange an appropriate alternative accommodation, and for such accommodation, she cannot insist on any payment either from Respondent No.1 or Respondent No.2 over and above what is provided in this order. It is also made clear that irrespective of the kind of accommodation arranged by the Appellant and the amount of rent or compensation she is required to pay therefor, the amounts to be deposited by the respective Respondents shall be in accordance with this

order;

(vi) In case Respondent No.2 fails or neglects to deposit any further amount, as provided in clause (iii) above, from time to time, as provided in this order, or at any given time, the Appellant shall be entitled to apply to this Court for release of appropriate corresponding amounts to her from out of the deposit of Rs.20 lakhs made by Respondent No.1 herein. Any such application shall be decided by this Court solely by considering whether or not the amount or amounts has/have been deposited by Respondent No.2 and no other submission;

(vii) The Appellant herein shall be entitled to withdraw initially a sum of Rs.4,95,000/- from out of the amount deposited by Respondent No.2 herein in accordance with clause (ii) above. The Registrar shall permit the Appellant to do so within a period of one week of deposit of the amount. At the end of each quarter following the initial withdrawal, the Appellant shall be entitled to withdraw a sum of Rs.1,65,000/- or such incremental sum, as provided in this order, representing three months rent or compensation towards the alternative accommodation availed of by her;

(viii) The Appellant herein shall be at liberty to apply for maintenance, including interim maintenance before the matrimonial court in the pending proceedings. If and when such application is made, the same shall be decided on its own merits. All rights and contentions of the parties in that behalf are kept open;

(ix) The hearing of the first appeals is expedited. In case by the time the first appeals are taken up for hearing, the amount of Rs.20

lakhs deposited by Respondent No.1 herein is exhausted as a result of withdrawal permitted to the Appellant in accordance with this order, liberty to the Appellant to apply for further reliefs in the first appeals;

(x) This order has been passed in the presence of the parties and after taking their informed consent. The statements of the parties recorded herein are treated as undertakings;

(xi) The civil applications are disposed of accordingly.

Smita
Gonsalves

Digitally signed by
Smita Gonsalves
Date: 2020.03.05
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(S.C. GUPTE, J.)