

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

**CIVIL APPLICATION NO.328 OF 2018
IN
FAMILY COURT APPEAL NO.241 OF 2013**

Vishnu Babu Tambe Applicant

IN THE MATTER BETWEEN :

Apurva Vishnu Tambe ... Appellant

versus

Vishnu Babu Tambe Respondent

.....

- Mr.Jaydev Trivedi i/b. Ms. Manisha Prajapati, Advocate for Applicant.
- Ms.S.I. Shah i/b. S.I. Shah & Co. Advocate for Respondent No.5.
- Mr.Abhishek Deshmukh a/w Mr.Mayuri Barde i/b. Mr.Sanjiv A. Sawant for Appellant in FCA No.241/2013.

**CORAM : K. K. TATED &
SARANG V. KOTWAL, JJ.**

DATE : 24th JANUARY, 2020.

P.C. :

1. Heard learned Counsel for the parties.
2. By this Civil Application the Applicant/Husband is seeking to completely rescind the order dated 10/07/2017

passed by this Court in Civil Application No.355/2013 and Civil Application No.106/2015 and/or is seeking modification of the said order dated 10/07/2017 to the extent that instead of Rs.15,000/- per month, the Applicant may be permitted to pay a sum of Rs.5,000/- per month by way of maintenance to the Respondent/wife and her daughter.

3. Learned Counsel for Applicant submits that, this Court passed order dated 10/07/2017 in Civil Application No.355/2013 directing Applicant to pay maintenance charges. The Applicant retired from service on 31/05/2016. He submitted that before retirement he was getting salary of Rs.39,000/- per month approximately and after retirement he is getting Rs.14,893/- per month approximately. Therefore it is difficult for him to pay a sum of Rs.15,000/- per month to the wife and daughter. Hence he has preferred the present Civil Application.

4. On the other hand, learned Counsel appearing for Appellant/wife vehemently opposed this Civil Application. He

submitted that Civil Application is required to be dismissed with cost only the ground of suppression of facts. He submitted that the order passed by this Court dated 10/07/2017 in Civil Application No.355/2013 was challenged by the Applicant by preferring Special Leave to Appeal No.21970 and 21972 of 2017. He submitted that the Hon'ble Apex Court by order dated 04/09/2017 dismissed the Applicant's Special Leave to Appeal. Therefore there is no question of entertaining the present Civil Application. He further submitted that as on today, the Respondent/wife is not doing anything. She has to maintain her daughter who is 13 years old. She is taking education in 8th standard. He submitted that actually the Respondent/wife is spending more than Rs.15,000/- for survival. Therefore, the present Civil Application is required to be dismissed with cost.

5. Heard learned Counsel for both the parties at length.
6. Bare reading of Civil Application and other orders clearly shows that this Court decided to pay maintenance of

Rs.15,000/- to the wife and daughter which is reasonable amount. Not only that, the same was challenged by the Applicant before Apex Court and that SLP was dismissed by order dated 04/09/2017.

7. In view of the this fact we do not find any substance in the present Civil Application. Hence same is required to be dismissed with cost.

8. Hence the following order is passed:

- (a) Civil Application stands dismissed.
- (b) The Applicant to pay cost of Rs.7,500/-. Cost to be paid to the Respondent within four weeks from today and place on record receipt of the same.

(SARANG V. KOTWAL, J.)

(K.K.TATED, J.)