

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CIVIL APPLICATION [CAO] NO.528 OF 2020

IN

FAMILY COURT APPEAL NO.50 OF 2014 [DECIDED]

[Shri Mohan s/o Gopichand Janbandhu .vs. Smt. Anita w/o Mohan Janbandhu]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.

Court's or Judge's orders

Shri D.A. Sonwane, Advocate for the applicant-respondent-wife,
Shri K.P. Sadavarte, Advocate for the appellant-husband.

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CORAM : MADHAV J. JAMDAR, J.

DATED : 12.05.2020.

1] This Civil Application is moved by the respondent-wife seeking that the amount of Rs.2,00,000/- with accrued interest deposited by the appellant-husband be allowed to be withdrawn by her.

2] The respondent-wife has filed Petition No. C-3/2001 seeking maintenance under Section 18 of the Hindu Adoption and Maintenance Act. The said petition was allowed by the judgment and order dated 30.6.2006 by passing the following order by learned Principal Judge, Family Court, Nagpur :

“i] Petition is allowed.

ii] The respondent shall pay maintenance @ Rs.2000/- per month to the petitioner from the date of order.

iii] The respondent shall pay an amount of Rs.2 Lacs to the petitioner towards

compensatory costs as stated above.

iv] The respondent shall pay an amount of Rs.2000/- to the petitioner towards litigation expenses.

v] A decree be drawn up accordingly.”

3] The appellant-husband filed Family Court Appeal No.50/2014 challenging the judgment and decree dated 30.6.2006 passed by the learned Principal Judge, Family Court, Nagpur in Petition No.C-3/2001.

4] By order dated 13.11.2006, the First Appeal No.582/2006 filed by the appellant-husband was admitted and the appellant-husband was directed to deposit in this Court compensation amount of Rs.2 Lacs awarded by the Family Court, within a period of eight weeks. By further order dated 30.4.2007, it was recorded that the appellant-husband had deposited an amount of Rs.1,25,000/- and he sought further period of two months to deposit balance amount of Rs.75,000/- and accordingly the appellant-husband was granted two months' time to deposit an amount of Rs.75,000/-. It appears that thereafter the said amount was deposited in this court by the appellant-husband. Thereafter, said Family Court Appeal No.50/2014 was heard finally and was dismissed by the judgment and order dated 10.01.2020. As far as the aspect of imposing the costs of Rs.2 Lacs is concerned, this Court observed in paragraphs 18 and 19 as follows:

*“18. The appellant relied upon the judgment in the case of **Laxman Prasad .vs. Prodigy Electronics Limited and another [AIR 2008 SC 685]**. It is on the point of non-interference by the Appellate Court when the trial Court has imposed costs by exercising discretionary power. The respondent-husband was ordered to pay Rs.2,000/- per month from the date of the order. So also he was asked to pay Rs.2,00,000/- towards damages. It was for the purpose of causing mental agony to the wife for claiming that she was a maid servant. We do not find any reason to interfere in awarding of damages and its quantum by the learned Family Court Judge. The appellant not only levelled the respondent as a maid servant but he took every step to prove it. He examined three of his relatives to depose on the same line as that of the appellant. Even he went to the extent of examining photographer and levelling the two photographs as an outcome of trick photography. We do not deny the right of the appellant to examine witnesses but we find his claim totally ill-motivated and false.*

19. Hence, no interference is warranted. We affirm the judgment of the Family Court by dismissing the appeal. We do not intend to impose additional costs on the appellant. The appeal is dismissed.”

It appears that while disposing of the appeal, the direction to permit the withdrawal of the said amount of Rs.2 Lacs with accrued interest by the respondent-wife has remained to be passed.

5] The factual position on record clearly shows that the Family Court imposed costs of Rs.2 Lacs by the judgment and order dated 30.6.2006 and the said order has been confirmed by this Court.

6] Advocate Shri K.P. Sadavarte appearing for the appellant-husband seeks some time, however, no useful purpose will be served as the said amount of Rs.2 Lacs was deposited in this Court pursuant to order passed by this Court to comply with the order dated 30.6.2006 passed by the Family Court and the appeal has been dismissed by specifically confirming the order of payment of Rs.2 Lacs towards the compensation. Therefore, Civil Application is allowed and the respondent-wife is allowed to withdraw the costs of Rs.2 Lacs with accrued interest deposited by the appellant-husband in this Court.

7] With this direction, Civil Application is disposed of.

JUDGE

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