

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FAMILY COURT APPEAL NO.1 OF 2021
WITH
CIVIL APPLICATION NO.501 OF 2021
IN FCA/1/2021

PRASHANT ASHOKRAO WADGAWE
VERSUS
DEEPALI PRASHANT WADGAWE

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Shri Prashant A. Wadgawe, Appellant, Party In Person.
Shri Prakashsingh B. Patil, Advocate for the respondent.

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**CORAM : RAVINDRA V. GHUGE
&
S.G. MEHARE, JJ.**

DATE :- 17th August, 2021

Per Court :-

1. We have briefly heard the appellant in person and the learned advocate on behalf of the respondent. We have perused the impugned order dated 18.05.2020.

2. Considering the contentions of the appellant, we called upon the learned advocate for the respondent to assist us, on the basis of the record, as to whether, before the impugned order dated 18.05.2020 was passed by the learned Family Court at Latur below application Exhibit-6 in Petition No.A-32/2020, (a) was the copy of exhibit-6 served on the appellant, (b)

whether, the appellant was granted an opportunity to address the learned Family Court and (c) was there a grave urgency to pass an ex-parte order?

3. The learned advocate for the respondent drew our attention to the few sentences prior to the operative part of the order, which would itself indicate that no opportunity of hearing was given to the appellant and an ad-interim maintenance was granted. It is also mentioned in paragraph 3 of the order that till the appearance of the appellant in the said proceeding, an ad-interim order granting maintenance was being passed. Our attention is then drawn to clause (b) of the operative part of the order which clearly indicates that neither the appellant was served a copy of exhibit-6, nor was he heard. So also, no urgency is noticeable.

4. We find that while passing the impugned order dated 18.05.2020, though the Court has the discretion to pass an ad-interim order, the impugned order does not reflect such reasons which would indicate that heavens were likely to fall if the learned Family Court would not have passed the order on 18.05.2020, which is the same day on which exhibit-6 was filed. We could have appreciated had reasons been assigned by the

learned Family Court as regards the compelling circumstances which mandated or warranted the passing of such order.

5. The learned advocate for the respondent submits that instead of time being spent in litigation before this Court, the impugned order may be set aside. As the appellant admits that he has received a copy of exhibit-6, a particular date may be given to enable the appellant to appear before the Family Court at Latur, file his written reply and also file his written submissions, if found necessary, and thereafter, the Family Court could proceed to decide exhibit-6 on its merits.

6. The appellant in person is agreeable. He, however, prays that he may be permitted to canvass the point that during the SOP operable in the period of lock-down, such application for interim maintenance need not be treated as being an urgent application. We grant him the liberty to raise all contentions before the Family Court.

7. In view of the above, this Family Court Appeal is partly allowed. The impugned order dated 18.05.2020 is quashed and set aside and the parties are directed as under :-

(a) Since the next date of hearing before the learned Family Court at Latur is scheduled on 30.08.2021, the appellant

would appear before the said Court on the said date at 11:00 am and the written reply to exhibit-6 will be filed by the appellant along with his written notes of submissions and case law, if any.

(b) All contentions that the appellant desires to raise before the learned Family Court can be raised in his written say and written submissions.

(c) The appellant is also at liberty to engage an advocate to represent him before the learned Family Court.

(d) Copies of the written say, written submissions and case law, if any, will be supplied to the learned advocate for the respondent before the Family Court at Latur on 30.08.2021.

(e) The respondent is at liberty to submit her written submissions, if advised, on 04.09.2021.

(f) To enable the parties, in view of the written say and written submissions being tendered on 30.08.2021, to prepare themselves, the learned Family Court shall then post the matter on 04.09.2021 and both the parties may address the Court orally, but briefly.

(g) Thereafter, the learned Family Court shall deliver a reasoned order on exhibit-6, on or before 15.09.2021.

(h) In the event, if both the parties are willing for

expeditious recording of evidence and early disposal of Petition No.A-32/2020, the learned Family Court would consider the said request and endeavour to decide the said petition as expeditiously as possible and preferably on or before 31.03.2022.

(i) The amount of Rs.10,000/- (Rupees Ten Thousand) deposited by the appellant in this Court, by the consent of the respondent, shall be transferred to the Family Court at Latur with accrued interest, if any. Needless to state, the said amount shall be subject to the decision on the application exhibit-6.

(j) If the parties are agreeable, the learned Family Court can refer the matter for mediation.

8. The pending Civil Application does not survive and stands disposed off.

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(S.G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)