

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

FAMILY COURT APPEAL NO. 73 OF 2016

Sau Padmini w/o Rahul Wasnik,
Aged about 28 yrs. Occ.- Household
R/o- Subhank Boudh Vihar in front of
Qr.No.118/A Saddak No.20 Zone no.BMY
Charoda Dist. Durg (CG).

.... **APPELLANT**

// **VERSUS** //

Rahul s/o late Pandhari Wasnik,
Aged about – 37 years, Occ.- Service,
R/o- Railway Station Road,
Bhandewadi, Pardi, Nagpur.

.... **RESPONDENT**

Shri. B.W. Patil, Advocate for appellant.
None for respondent.

CORAM : **A.S. CHANDURKAR AND PUSHPA V. GANEDIWALA, JJ.**
DATE : 10 FEBRUARY, 2021.

JUDGMENT: [PER: A.S. CHANDURKAR, J.]

The challenge raised in this Family Court Appeal is to the judgment of the Family Court, Nagpur dated 17/03/2016 in Petition No.C-07 of 2012.

2. By the present appeal, the appellant who had filed proceedings under Section 25 of the Hindu Marriage Act, 1955 had prayed for grant of permanent alimony. The Family Court has granted an amount of Rs.4,32,000/- towards permanent alimony in default respondent has been directed to pay sum of Rs.2500/- per month from 01/01/2012. The appellant not being satisfied with the quantum of permanent alimony has filed the present appeal.

3. Shri B.W. Patil, learned counsel for the appellant submitted that considering the fact that the respondent was duly employed and receiving salary of Rs.35,000/- per month, the appellant was entitled to higher amount of permanent alimony. He referred to the evidence on record to indicate that the respondent was well settled in life and that he could afford to pay high amount of permanent alimony to the appellant. On the contrary after separation appellant was living with her brother and was dependent on him. It was thus submitted that considering the facts of the case and the earnings of the respondent the higher amount of permanent alimony is liable to be granted to the appellant.

4. On 09/02/2021 the learned counsel for the respondent was absent and hence the appeal was kept today for granting him an opportunity. Today also there is no appearance on behalf of the respondent. In the light of the contentions of the learned counsel for the appellant the following point raises for adjudication:

“Whether the appellant has proved that she is entitled to higher amount of permanent alimony?”

5. We have heard the learned counsel for the appellant and we have also perused the records of the case. It is not in dispute that the parties were married on 09/07/2007 and shortly thereafter by the judgment dated 03/02/2012 the marital ties were severed. The appellant for the purpose of claiming permanent alimony pleaded that after the separation she was staying with her brother in the premises of temple. She was unable to maintain herself while on the contrary the respondent was employed as a clerk with the Municipal Corporation. He was getting salary of Rs.35,000/- per month. Nothing much could be extracted in her cross-examination. The respondent in his cross-examination admitted that he was receiving gross salary of more than Rs.35,000/- per month. Details

of some other properties owned by him were also brought on record.

6. The learned Judge of the Family Court after considering the entire evidence on record found that the appellant was entitled to be granted permanent alimony and thereafter proceeded to determine the same by taking into account the figure of Rs.2000/- per month for a period of 18 years. Considering the nature of evidence on record including the fact that the respondent was having permanent employment and receiving salary of Rs.35,000/- per month coupled with the fact that the appellant was entitled to be granted permanent alimony in the light of the standard of living of the respondent, we find that the amount of permanent alimony can be slightly enhanced by calculating the same at Rs.2500/- per month. Thus for a period of eighteen years the same would come to Rs.5,40,000/- which the amount of permanent alimony would serve the interests of justice. The point as framed is answered accordingly.

7. As a result of the aforesaid discussion, the judgment of the Family Court is partly modified. It is held that the appellant is entitled to receive permanent alimony of Rs.5,40,000/-. This

amount be paid to the appellant within a period of four months from today. In default the respondent would be liable to pay permanent alimony at the rate of Rs.3000/- per month from 01/01/2012 till remarriage of the appellant. The Family Court Appeal is partly allowed in the aforesaid terms. The parties to bear their own costs.

JUDGE

JUDGE

R.S. Sahare