

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
904 CRIMINAL APPLICATION NO.1151 OF 2022
IN REVN/47/2022
WITH
CRIMINAL REVISION APPLICATION NO.47 OF 2022**

GANESH RAKHMAJI KHARAT
VERSUS
PUSHPA W/O. GANESH KHARAT

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Advocate for Applicant : Mr. Vishal A. Bagal

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CORAM : S. G. MEHARE, J.

DATE : 19th July, 2022

PER COURT :-

1. The learned counsel for the applicant would submit that initially the notice was sent to the respondent at the address given before the Family Court. Since the notice could not be served, he had given new address of the respondent as the applicant came to know that the respondent is residing with her parents. However, the report shows that she is not residing there. Therefore, he requests to grant him permission to serve the respondent by way of paper publication in "Punyanagari Marathi" local newspaper in Jalna District.

2. Considering the repeated attempts of the applicant to serve the respondent and absence of the respondent on the

known address, she could not be served. Hence, the permission is granted as prayed.

3. Criminal Application No.1151 of 2022 is allowed. Notice be made returnable on 17th August, 2022.

4. The learned counsel for the applicant would submit that the learned Judge, Family Court, Jalna, has awarded an exorbitant amount of maintenance of Rs.5,000/- per month to the respondent. The applicant is an agriculturist having 48 R of the land. It has been vehemently argued by the learned counsel for the applicant that the learned Judge has misread the 7/12 extract and erroneously observed that the applicant is the owner of the land measuring 1 Hectare 48 R. He has referred to the 7/12 extract and brought to the notice of this Court that only 48 R of land stands in the name of the applicant. Since the applicant is burdened to pay the exorbitant amount, it is very difficult for him to manage the amount of maintenance. Sincere attempts have been made to serve the respondent but the respondent did not respond. However, she has filed execution proceeding before the Family Court and she is insisting for recovery of amount. In the circumstances, stay may be granted to the impugned order.

5. Perused the papers, impugned order and 7/12 extract. It

appears from 7/12 extract that 48 R of land stands in the name of the applicant. However, learned Judge, Family Court, has observed that the applicant is the owner of 1 Hectare 48 R of land and it is perennially irrigated. The quantum of maintenance has been determined by the learned Judge on the basis of 7/12 extract showing the land in the name of the applicant. However, present 7/12 extract filed on record shows that applicant is the owner of 48 R of land. Considering the sincere attempts to serve the respondent and quantum of maintenance determined by the learned Judge, Family Court, this Court is of the view that the applicant has good case for interim stay. Hence, the following order;

ORDER

(i) The execution, implementation, effect and operation of the impugned order passed by the learned Judge, Family Court, Jalna in Petition No.E-293 of 2019 dated 22nd October, 2021, is stayed till the appearance of the respondent, on the condition that the applicant shall clear the arrears of maintenance to the extent of 50% of the amount of maintenance granted by the learned Judge, Family Court and shall continue to pay the maintenance amount @ Rs.3,000/- per month to the respondent until further orders.

**(S. G. MEHARE)
JUDGE**