

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

**7 CIVIL APPLICATION NO. 11400 OF 2021
IN SAST/15320/2021**

**RAVINDRA VISHWANATH MAGAR
VERSUS
SINDHUBAI RAVINDRA MAGAR**

...

Advocate for Applicant : Mr. Kadam Gajanan G.
Advocate for Respondent : Mr. Pushpak U. Gujrathi h/f Mr. Vijay P. Latange.

**CORAM : MANGESH S. PATIL, J.
DATE : 10.01.2022.**

PER COURT :

The appellant-husband who is suffering a decree for civil maintenance passed under Section 18 of the Hindu Adoption and Maintenance Act is seeking stay to the execution. The appellate court by the judgment under challenge has granted the decree and has directed the appellant to deposit Rs. 10,000/- per month towards maintenance from the date of the suit. He is now seeking stay to the execution.

2. Learned advocate for the appellant submits that already the maintenance claimed by the respondent-wife under Section 125 of the Code of Criminal Procedure was refused by the concerned court and the order was confirmed up to this Court. He would submit that after lapse of decades she has again applied for maintenance under Section 18 of the Hindu Adoption and Maintenance Act and the appellate court has found her entitled to recover Rs. 10,000/- per month from the date of the suit.

3. The learned advocate further submits that the appellant since has retired from the employment and is suffering from paralysis. He would be put to hardship if in the meantime the decree is allowed to be executed.

4. Learned advocate Mr. Gujrathi for the respondent-wife submits that the appellant has retired and is getting sumptuous pension. Already he has neglected her for years together and nothing has ever been paid to her towards her maintenance. There is a delay also in filing the appeal. He would therefore submit that no blanket stay be granted.

5. I have heard both the sides and considering the aforementioned facts and circumstances brought to my notice, when there is no dispute about the respondent being the wife of the appellant, it would be appropriate that the execution is stayed subject to a condition directing the appellant to deposit something towards the arrears which are pending since 2012 that is the date of the suit.

6. In view of the above, the application is partly allowed. Execution of the decree under challenge shall stand stayed subject to appellant depositing 75% of the arrears in the trial court within four weeks.

7. The respondent shall be at liberty to withdraw the amount by furnishing appropriate security to the satisfaction of the Executing Court.

8. The deposit would be subject to the outcome of the second appeal.

(MANGESH S. PATIL, J.)

mkd/-