

(1)

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

**CIVIL APPLICATION NO. 14198 OF 2018
IN FAMILY COURT APPEAL NO. 71 OF 2018
WITH FAMILY COURT APPEAL NO. 83 OF 2019**

Sanjivani w/o. Prashant Patil,
Age : 28 Years, Occ.: Household & Student,
R/o. At present Govindraaj Apartment,
C/o. Baburao Anantrao Jadhav,
Shrinagar, Nanded
Tq. & Dist. Nanded.

... APPLICANT
(Orig. Appellant)

VERSUS

Prashant s/o. Govindrao Patil,
Age : 31 Years, Occ.: Teacher & Agri.,
R/o. Rajgad Nagar, Purna Road,
Canal Road, Near Madhavrao Patil School,
Nanded, Tq. & Dist. Nanded.

... Respondent
(Orig. Respondent)

Mr. M. V. Ghatge, Advocate for the applicant
Mr. M. D. Narwade, Advocate for the respondent

**CORAM : SMT. VIBHA KANKANWADI &
R. M. JOSHI, JJ.
DATED : 14th OCTOBER, 2022**

ORAL ORDER (PER- R. M. JOSHI, J.):-

1. By this application, applicant is seeking order of payment of Rs.25,000/- as maintenance pendente lite and Rs.50,000/- towards litigation expenses under Section 24 of Hindu Marriage Act.

2. There is no dispute about the fact that the applicant and respondent entered into martial knot on 22nd May, 2011. There is the contention of the applicant that she was meted out with illtreatment and was driven out of the house on 14th May, 2013 and thereafter respondent filed proceeding for divorce. The applicant also filed proceeding for restitution of conjugal rights. The proceeding filed by respondent for divorce came to be allowed and petition for restitution of conjugal right filed by applicant is dismissed, by common judgment and order dated 10th September, 2018 against which Family Court Appeal bearing No. 71 of 2018 is filed by applicant which is pending before this Court.

3. Along with CA No. 13370 of 2021 permission is sought that the applicant be allowed to produce documents by way of additional evidence. It is the contention of learned counsel for the applicant that during the pendency of appeal respondent is made permanent in service and he is now earning Rs.71,000/- per month as salary. He also pointed out that in the meantime movable and immovable properties are also acquired by the respondent which shows his sound financial capacity. Learned counsel for the respondent opposed

(3)

the said contention by submitting that petition filed by applicant for restitution of conjugal rights has been rejected by the competent Court and that there is no case made out for grant of interim maintenance in this proceeding.

4. Order of grant of permanent alimony of Rs.15 lakhs in favour of applicant is stayed by this Court in application filed by the respondent by order dated 28th November, 2018, passed in Civil Application No. 14191 of 2018. There can not be dispute made about maintainability of present application, Section 24 of the Hindu Marriage Act provides for an application in any proceeding under the Act where it appears to the Court that either wife or husband, as the case may be, has no independent income sufficient for her/ his support.

5. In instant case applicant has specifically come out with case of inability to maintain herself. There is no evidence on record to *prima facie* discard the said contention. On the other hand perusal of the information received under RTI shows that respondent is presently earning Rs.71,000/- per month as salary so also that he has acquired flat and car after the passing of impugned judgment, which is indicative of his

(4)

sound financial condition. The same has also been considered by this Court while passing order dated 13th December, 2021 with observation that respondent is permanent and now drawing salary as per 7th pay commission recommendations.

6. *Prima facie* there is evidence to show that earning of the respondent has increased at least two fold. During the pendency of appeal, for maintaining status at par with respondent, applicant is also entitled to receive more amount of maintenance than granted by Trial Court. In the circumstances, applicant has made out the case for grant of Rs.20,000/- per month as maintenance pendente lite. The prayer regarding expenses of the litigation shall be considered at the time of decision of the appeal.

7. Applicant shall be entitled to receive Rs.20,000/- per month from the date of application till decision of this appeal.

8. Application is disposed of in above terms.

(R. M. JOSHI, J.)

(SMT. VIBHA KANKANWADI, J.)