

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

FAMILY COURT APPEAL NO.43 OF 2022

AARTI D/O RAMDAS DANDGE
VERSUS
RAMDAS S/O RAJARAM DANDGE

...
Advocate for Appellants : Mr. Ajit M. Gholap
Advocate for Respondent : Mr. Rahul G. Joshi
...

**CORAM : MANGESH S. PATIL AND
S.G. CHAPALGAONKAR, JJ.**

DATE : 01.03.2023

PER COURT :

Heard both the sides finally.

2. The appellant is the unmarried daughter of the respondent who was successful before the family court in soliciting an order regarding maintenance but was unable to persuade it even to award the marriage expenses. The learned Judge in paragraph No.16 has assigned the reasons that the claim was being made on hypothesis.

3. During pendency of this appeal, the appellant has filed an affidavit claiming that her marriage is to be performed on 02.05.2023. She has also annexed engagement invitation card, vouchers etc. to demonstrate that she has already spent an amount of Rs.5,39,224/-.

4. She has also estimated the future expenses leading to the marriage, to Rs.12 Lakhs.

5. The respondent has also filed affidavit-in-reply and *inter alia*

has expressed his readiness to pay Rs.1,50,000/- to the appellant. On instructions from the respondent who is also present in person the learned advocate submits that he is ready to pay Rs.2,00,000/-.

6. Obviously, this being an appeal, any additional evidence can be led in accordance with the provision of Order XLI Rule 27 of the Code of Civil Procedure since all these facts need to be established on the basis of evidence. The Family Court could not decide the marriage expenses to which the appellant was entitled to since till that time there was no occasion for him as the marriage was not fixed. If by passage of time due to supervening events as indicated herein above if the appellant is now to get married on 2nd May 2023, considering the exigencies, we feel it appropriate that the matter is remanded to the family court for decision afresh to the extent of the appellant's entitlement to the marriage expenses which would enable the parties to lead evidence which can be tested and some conclusion can be arrived at by the family court objectively.

7. However, in view of the exigencies some interim relief needs to be granted. The family court in its judgment under appeal has expressly mentioned that being a teacher the respondent was getting a gross salary of around Rs.80,000/- per month, which by passage of time must have increased. In his affidavit-in-reply the respondent has conveniently omitted to state exactly what income he is currently deriving. By resorting to inevitable guess work and by drawing an adverse inference some interim solace can be granted to the appellant else the purpose of remanding the

matter and requiring the family court to decide the issue afresh would not be served.

8. According to us the following order would meet the ends of justice.

ORDER

- i. The appeal is allowed partly.
- ii. The impugned judgment and order are quashed and set aside and the matter is remanded back to the family court to record a specific finding as to appellant's entitlement to claim marriage expenses in light of above circumstances, by permitting the parties to lead additional evidence.
- iii. For the time being, we direct the respondent to pay to the petitioner Rs.5,00,000/- (Rupees Five Lakh only) towards the marriage expenses which shall be set off against the claim which ultimately the appellant would be found entitled to.
- iv. The money shall be deposited with the family court within four weeks which the appellant would be entitled to withdraw by furnishing usual undertaking.

(S.G. CHAPALGAONKAR, J.)

(MANGESH S. PATIL, J.)