

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

912 CIVIL APPLICATION NO. 10723 OF 2023
IN FAMILY COURT APPEAL NO.6 OF 2023

NIKITA AMIT AGRAWAL AND ANOTHER
VERSUS
AMIT RAMESHKUMAR AGRAWAL

...
Appellant present in Person
Advocate for the respondent : Mr. V.R. Jain
...

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 25 AUGUST 2023

PC :

The appellant from the Family Court Appeal wherein she is challenging the order passed by the Family Court granting a decree of divorce under section 13(i)(a) of the Hindu Marriage Act, 1955 has moved this civil application with following prayers:-

1. *The passport of the respondent should be impounded.*
2. *The respondent's property should be attached as per Order 38 Rule 5 of CPC:*
 - A. *To recover the school-fees and other educational expenses amounting to Rs.14 lakhs for the academic year 2022-23 and Rs.8.75 lakhs for the academic year 2023-24; approximately Rs.1 lakh paid towards the SAT and IELTS exam; (Kindly refer Annexure No. 9, 10, 11 and 12, 13, 14)*
 - B. *To secure Rs.073 lakhs for the annual trek programme, and the Educational Counsellor's fees and the application fees of the overseas universities; programme of the university admitting him for the said course; (Kindly refer Annexure No.15)*
 - C. *To secure and safe-guard the educational expenditure of the under-graduate programme of the Applicant No.2 and to*

ensure the regular payment of the interim maintenance in the upcoming years.

2. We have heard the appellant in person as also the learned advocate Mr. V.R. Jain who appears for the respondent – husband.

3. It transpires that a suit bearing Special Civil Suit no. 146 of 2017 has been filed by the appellant together with her son from the respondent – husband, for maintenance under section 18 of the Hindu Adoption and Maintenance Act, 1956. Admittedly, the hearing in that proceedings is going on before the learned Civil Judge Senior Division. It appears that even the High Court in some matter has expedited the hearing of that suit and couple of extensions were sought by the learned civil judge. In-fact, the matter has gone to the trial and evidence is being recorded.

4. The appellant is seeking relief for her son who is not a party to the appeal. No such application could have been moved on his behalf in this appeal seeking the reliefs mentioned herein-above by resorting to Order XXXVIII Rule 5 of the Code of Civil Procedure. If he has some remedies, it would always be open for him to have the relief in the pending suit. By way of this application, we cannot consider the request of the son parallelly when the suit is pending before the civil court.

5. Keeping open all the issues, the application being not maintainable, is rejected.

[SHAILESH P. BRAHME]
JUDGE

arp/

[MANGESH S. PATIL]
JUDGE