

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 16623 OF 2023
IN
FAMILY COURT APPEAL NO. 40 OF 2018

SHRADDHA
KAMLESH
TALEKAR
Digitally
signed by
SHRADDHA
KAMLESH
TALEKAR
Date:
2023.12.15
16:39:35
+0530

Prashant Ganpat Rane ...Applicant

In the matter between :

Prashant Ganpat Rane ... Appellant

Versus

1) Mrs. Purva Prashant Rane
& anr. ...Respondents

Ms. Manisha Bhosale, Advocates for Applicant/Appellant.

**Mr. Karan Vishwajith Mertia a/w. Ms.Prajakta Prakash Tawde,
Advocate for Respondents.**

**CORAM : B. P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.**

DATE : DECEMBER 15, 2023

P. C.

1. The above Interim Application is filed seeking to stay the execution proceedings RD No.174/2018 pending before the learned Family Court. The other relief sought is to stay the effect, implementation and execution of the

Order dated 26th September 2023 under which an arrest warrant is issued by the learned Family Court in the said execution proceedings.

2. When the above matter had come up on 2nd November 2023, we had noted that the arrest warrant order was in relation to recovery of *Stridhan* [gold ornaments] only. According to the Applicant-Husband, considering that the petition filed before the Family Court was under section 18 of the Hindu Adoption and Maintenance Act, 1956, no order could have been passed by the Family Court in relation to the *Stridhan* and which is an important jurisdictional issue. She submitted that this jurisdictional issue has in fact been raised in the above Family Court Appeal. Though this Court had earlier not granted any stay to the Applicant-Husband, it was submitted that the Applicant-Husband is willing to deposit a sum of Rs.2,00,000/- which would be the approximate cost of the alleged *Stridhan* that is to be returned by the husband to the wife. Considering this stand taken by the Husband, this Court, by its order dated 2nd November 2023, directed the Husband to deposit in this Court a sum of Rs.2,00,000/- on or before 7th December 2023 as a condition precedent for staying the arrest warrant issued against the Husband. We had made it clear in the said order that this is an ad-interim order as the wife was not before us on the said date.

3. Today, when the matter is called out, the wife is represented by an Advocate. The learned Advocate for the Respondent-wife has submitted that the total gold ornaments are weighing approximately 60 grams as recorded in the order passed by this Court on 7th August 2018. He submitted that the value of Gold as on today is approximately Rs.5,974/- per gram. If this is to be multiplied by 60 grams, the total price of the gold would be approximately Rs.3,58,000/-. In these circumstances, the husband ought to be directed to desposit in this Court the balance amount of Rs.1,58,000/- before any stay is continued on the arrest warrant, was the submission.

4. In answer to this argument, the learned Counsel appearing on behalf of the Applicant-Husband submitted that there is serious financial difficulty in depositing the amount of Rs.1,58,000/-. She submitted that apart from this, the husband has been regularly paying maintenance to the Respondent-wife and is also taking care of his ailing parents. She, therefore, submitted that it would be highly inequitable to make the husband deposit Rs.1,58,000/- as a condition precedent to continue the stay of the arrest warrant.

5. We have heard the learned counsel for the parties at some length. We have also perused the papers and proceedings in the above Interim

Application. In the order passed by this Court on 7th August 2018, this Court has set out the list of gold jewellery which the wife had claimed and which formed the subject matter of the Family Court order on 27th December 2017.

6. The gold ornaments claimed by the wife [as per the list] is approximately of 60 grams. When we consider the total value of the gold jewellery as on today, it would come to approximately Rs.3,58,000/-. In contrast thereto, the husband has deposited in this Court only a sum of Rs.2,00,000/- towards the said jewellery and sought a stay of the execution proceedings in relation thereto. Once we are convinced that the value of the jewellery is approximately Rs.3,58,000/-, it would only be fair that the husband is directed to deposit the balance amount of Rs.1,58,000/- in this Court to secure the claim of the wife towards the jewellery.

7. In these circumstances, the Applicant-Husband is directed to deposit a sum of Rs.1,58,000/- within a period of three months from today. The learned counsel appearing on behalf of the wife has fairly stated that in the event the amount of Rs.1,58,000/- is deposited in this Court within the time frame as set out above, then, the wife shall withdraw execution proceedings RD No.174 of 2018. The said statement is accepted as an undertaking given to this Court.

8. It is made clear that in the event the amount of Rs.1,58,000/- is not deposited in this Court within three months from today, the stay granted by this Court vide order dated 2nd November 2023, shall stand automatically vacated without any further reference to the Court and the wife shall be at liberty to proceed with the execution proceedings including the arrest warrant order passed by the Family Court.

9. The Interim Application is accordingly disposed of. However, there shall be no order as to costs.

10. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[SOMASEKHAR SUNDARESAN, J.]

[B.P. COLABAWALLA, J.]