



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION (CAO) NO.1035 OF 2023 IN
FAMILY COURT APPEAL NO.35 OF 2023

Prashant S/o Anandrao Bawankar Vs. Jayashree Prashant Bawankar

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri A.A. Bhendarkar, Advocate for applicant/appellant.
Shri O.A. Ghare, Advocate for non-applicant/respondent.

CORAM : VINAY JOSHI &M.W. CHANDWANI JJ.
DATE : DECEMBER 20, 2023.

This is an application seeking stay to the execution and operation of the order dated 10.02.2023 passed by the Family Court, Bhandara in Marriage Petition No.4 of 2021.

2. While entertaining this appeal we have passed an interim order dated 19.08.2023, which runs as below:

“6. In view of the above, we are inclined to pass the following interim order :

O R D E R

i. The execution and implementation of the impugned judgment and order dated 10.02.2023 passed in Petition No.A-4/2021 by the Family Court at Bhandara, is stayed only to the extent of part of maintenance with a rider that appellant (husband) shall regularly pay 50% amount of maintenance as ordered by the Family Court, Bhandara.

7. This interim order shall remain in force, till the appearance of the other side.”

3. In such a background, the stay is sought by submitting

that the husband is not in financial position to pay the arrears of maintenance as ordered by the Family Court. It is pointed out that already the applicant-husband is paying interim maintenance @Rs.13,000/- per month in the proceedings filed by the wife under the provisions of Protection of Women from Domestic Violence Act, 2005 (DV Act). The applicant would submit that in pursuance of interim order of this Court he is paying 50% of the maintenance awarded by the Family Court i.e. Rs.15,000/- per month till date. The applicant would submit that as regards to the arrears are concerned, he is not in position to pay the arrears. The applicant has attracted our attention to his salary deductions, personal responsibility etc.

4. Having regard to the all above circumstances and interim order passed by this Court is not in force, hence, we are passing fresh order as below:

ORDER

- i. The execution and implementation of the impugned judgment and order dated 10.02.2023 passed in Petition No.A-4 of 2021 by the Family Court, Bhandara, is stayed only to the extent of part of maintenance with a rider that appellant (husband) shall regularly pay 50% amount of maintenance as ordered by the Family Court, Bhandara and shall deposit Rs.1,00,000/- (One Lakh Rupees) towards

arrears within four weeks from today. We are clarifying that the stay will operate on regular payment of 50% of the maintenance amount i.e. to pay Rs.15,000/- per month apart from interim order passed under D.V. Act.

5. The application stands disposed of in above terms.

(M.W. CHANDWANI, J.)

(VINAY JOSHI, J.)

Wagh