



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

**CIVIL APPLICATION NO.306 OF 2023
IN
FAMILY COURT APPEAL NO.74 OF 2019**

Neha Karthik Naik,
@ Neha Rajendra Bhandari,
Age-33 years, Occupation: Nil,
Resident of: Plot No.65, N-1.
Cidco, Aurangabad.

...APPLICANT

VERSUS

- 1) Shri Karthik Shankarappa Naik,
Age-31 years, Occupation:Service,
Resident of: "Kaushik"
Opposite Sumitra Hall, Bangarwadi,
Lonavala, District-Pune,
- 2) Mrs. Sonika Abhishek Mehta,
Age-32 years, Occupation:Service,
Resident of: Flat No.403/M,
Pinnac Memories, Kothrud,
Pune-411 038.

...RESPONDENTS

...
Mr. M.S. Kulkarni Advocate for Applicant.
Mr. Karthik Shankarappa Naik, respondent No.1 present
party-in-person.
...

**CORAM: SMT. VIBHA KANKANWADI AND
S.G. CHAPALGAONKAR, JJ.**

DATE : 5th JANUARY, 2024

ORDER :

1. Present Application has been filed for grant of maintenance

at the rate of Rs.1,50,000/- per month till the disposal of the appeal by respondent No.1 – husband herein to the applicant.

2. It is not in dispute that the wife – present applicant had filed H.M.P. No.459 of 2014 before the learned Family Court, Aurangabad seeking divorce. The decree for divorce was passed on 26th July 2019. It can be seen from the record of this Court that order to stay the decree was passed by this Court on 18th October 2019 in Civil Application No.12668 of 2019. It is submitted by the applicant that in view of this fact the husband is duty bound to maintain her as well as their daughter. The applicant-wife is now residing in United States of America. Applicant is residing in rented premises. She has to spend about 2000/- Dollars every month i.e. near-about Rs.1,60,000/- per month. Source of earning of husband – respondent No.1 would show that from all the sources he is getting Rs.4,00,0000/- per month and therefore the applicant has prayed for maintenance at the rate of Rs.1,50,000/-.

3. By order dated 14th February 2023, this Court has directed the parties to file affidavits in view of the decision in **Rajnesh vs. Neha** (Criminal Appeal No.730 of 2020 arising out of SLP (Cri) No. 9503 of 2018 decided on 4th November 2020).

4. It appears that applicant and respondent no.1 - husband, both have given the details as per their own contentions. Though it is tried to be contended by the learned Advocate for the applicant that say has not been filed by the respondent No.1 - husband to the application, however, respondent No.1 has produced the affidavit and documents showing his bank details. The learned Advocate for the applicant had made complaint that copies of all the documents have not been given. We find that those documents are not necessary.

5. Herein this case, it appears that now the the applicant - wife is residing in United States of America (USA) voluntarily. The expenses which have been claimed are on the said basis, which cannot be considered. Further the record would show that the applicant has undertaken a job in USA. Though she says that she has been forced to take up the job, even prima facie it can be observed that when she has voluntarily shifted, it would be with purpose, may be after considering future plans. But the fact remains is that it cannot be, at this stage, said that applicant's taking up job in USA is under forced circumstances. The details of income furnished by the applicant at Exhibit-I, page No.71 would show that she is earning gross pay of 33517.72 Dollars and the net pay is 28,892.82 Dollars. She has given the requirement and amenities to the extent of 459.60 Dollars only. Therefore,

applicant is earning sufficiently. If her earnings i.e. gross as well as net pay in Dollars is converted into Indian Rupees, it would be much more and therefore, we do not find that case is made out for grant of maintenance during the pendency of the Appeal.

6. Even in respect of the expenses of the daughter, in view of the adverse claims regarding the custody, we cannot grant any relief in respect of the same in this proceeding, however, it may be under some other provisions. We do not want to go into the details of the earnings of the husband for the reason that the wife is sufficiently earning. Even during the pendency of the proceedings before the learned Family Court, it has been stated by the learned Advocate for the applicant, on inquiry, that no such maintenance was granted by the learned Family Court and therefore, the application deserves to be rejected.

7. The Application stands rejected.

8. In view of the fact that the Appeal is of the year 2019 and many old Appeals are pending, the Appeal to come up as per its turn.

[S.G. CHAPALGAONKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE