



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.14419 OF 2023
IN
FAMILY COURT APPEAL NO.6 OF 2023

Nikita Amit Agrawal ... PETITIONER

VERSUS

Amit Rameshkumar Agrawal ... RESPONDENT

...
Applicant in person : Ms. Nikita Amit Agrawal
Advocate for respondent : Mr. V.R. Jain

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

**Reserved on : 25.06.2024
Pronounced on : 08.07.2024**

ORDER (PER : MANGESH S. PATIL, J.) :

Heard the applicant in person and the learned advocate for the respondent.

2. This is a family court appeal preferred by the wife being aggrieved and dissatisfied by the judgment and order of the family court, whereby, respondent – husband's petition for divorce on the ground of cruelty under Section 13 (1) (i-a) of the Hindu Marriage Act, 1955 (herein after the Act) has been allowed.

3. By way of this application the appellant is praying for payment of alimony *pendente lite* of Rs.70,000/- per month.

4. The appellant in person would take us through her own affidavit and the one filed by the respondent – husband in the light of directions of the Supreme Court in the matter of **Rajnesh Vs. Neha and Anr.; AIR 2021 SC 569**. She would precisely take us through the salary record of the respondent. She would submit that considering the gross salary and deducting there from statutory deductions, his monthly salary is more than Rs.2,00,000/- and she should be directed to be paid alimony *pendente lite* under Section 24 of the Act.

5. Per contra, the learned advocate for the husband would submit that the impugned judgment has quantified permanent alimony payable to the appellant at Rs.40,00,000/-. That was promptly deposited by him and has been duly credited in her account. Consequently, the appellant is not entitled to claim any alimony *pendente lite* and can very well utilize the amount of Rs.40,00,000/-.

6. It is indeed a matter of record that the couple is at two poles since long. Several proceedings have been going on between them. Even the orders of maintenance have been passed in various proceedings. This Court by order in Writ Petition No.13975/2019 had directed the respondent to pay to her Rs.60,000/- per month till the suit filed by her under Sections 18 and 20 of the Hindu Adoption and Maintenance Act, 1956 (herein after the Maintenance Act) was decided.

7. Over and above, as is evident from the bank statements of both the sides, the respondent deposited an amount of Rs.40,00,000/- as a permanent alimony as per the directions of the family court in the impugned judgment and order. The amount was credited to the account of petitioner on 21.10.2022 as the account statement demonstrates and as is evident in the application filed by the appellant. She has subsequently even deposited as a fixed deposit amount of Rs.30,00,000/- in aggregate with Saraswat Co-operative Bank.

8. In the peculiar circumstances, it is quite evident that although the appellant has been seeking the alimony *pendente lite* and in the normal course a wife in such a situation would be entitled to have it under Section 24 of the Act, the fact situation is peculiar. The family court in the impugned judgment had quantified the permanent alimony at Rs.40,00,000/- which has been deposited by the respondent and stands credited to appellant's account without demur. If such is the state of affairs, in our considered view, no separate alimony *pendente lite* can be directed under Section 24 *albeit*, it would always be open for the appellant as is mentioned in the appeal memo to dispute the quantum of permanent alimony.

9. Apart from the above state of affairs, as indicated herein above, in writ petition No.13975/2019 already this Court has directed the respondent to pay to her Rs.60,000/- per month till final decision of

Special Civil Suit No.146/2017 filed under Sections 18 and 20 of the Maintenance Act.

10. In view of above, we see no justification to the prayer being made by the appellant seeking alimony *pendente lite*. The application is rejected.

11. It is clarified that utilization/withdrawal of amount by the appellant either from Rs.40,00,000/- deposited in her account as permanent alimony or her receiving the amount of maintenance as ordered by this Court in writ petition No.13975/2019 shall be without prejudice to her right to dispute the quantum of permanent alimony fixed by the family Court in the impugned judgment.

[SHAILESH P BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

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