

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 3544 OF 2020
IN
FAMILY COURT APPEAL NO. 150 OF 2017

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Mrs. V. Jayakodi @ Jayakodi
Subbiah Nadar & Anr. ..Applicants/Appellants

Versus

Mr.Vijayaraja @ Viji
S/o. Thangaraj Nadar ..Respondent

Mr. Saurabh Oka, Advocate for Applicants/Appellants.

Mr.Mandar Patil i/b Bagkar & Co., Advocate for Respondent-husband.

Mrs.V. Jayakodi, D/o Subbaih Nadar, Appellant No.1-wife, is present in Court.

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

DATE: MARCH 22, 2024

P.C.

1. The above Interim Application is filed by the Applicants/Appellants seeking to recall the order of withdrawal dated 24th January, 2020 passed in the above Family Court Appeal (F.C.A.No. 150 of 2017) and restore the same and hear it on merits.

2. The Applicants/Appellants, vide this Family Court Appeal, had challenged the common judgment and decree dated 29th June 2016 passed by the Family Court, Thane (“*impugned order*”). Vide the impugned order, the Family Court, Thane (i) allowed the Petition filed by the husband seeking a divorce; (ii) rejected the Petition filed by the Appellant-wife seeking restitution of conjugal rights; and (iii) partly allowed the Maintenance Petition filed by the Appellant-wife. The above Family Court Appeal arose from that part of the impugned order which grants certain maintenance to the Appellant-wife and which was challenged by her on the ground that it was inadequate. As mentioned earlier, this FCA was withdrawn as per the order dated 24th January, 2020.

3. The Family Court, Thane, while partly allowing the Maintenance Petition filed by the Appellant-wife, granted maintenance to the tune of Rs.10,000/- to the Petitioner (Appellant No.1 herein) and Rs.10,000/- to the daughter (Appellant No.2 herein) [aggregating to Rs.20,000/- a month]. It appears that there are several arrears that are payable by the Respondent-husband to the Appellant-wife as per the order dated 29th June, 2016 passed by the Family Court.

4. We are happy to note that during the pendency of the above Interim Application, the parties have arrived at an amicable settlement as follows :

a) The Respondent-husband has agreed to clear the arrears of maintenance and has further agreed to keep paying the same in accordance with the Judgment and Decree dated 29th June 2016.

b) The Respondent has accepted that the arrears and further payments upto the month of June 2024, amount to Rs.10,64,000/-.

c) To discharge these arrears, the Respondent-husband has agreed and undertaken to pay (i) an amount of Rs.5,00,000/- by 15th June, 2024; (ii) the balance amount of arrears of Rs.5,64,000/- in the following manner:-

Date		
15/07/2024	Rs.30,000/- towards arrears	Rs.20,000/- towards maintenance for July, 2024.
15 th of every month	Rs.30,000/- towards arrears	Rs.20,000/- towards maintenance for that particular month.

d) In other words, the Respondent has agreed to pay a sum of Rs.50,000/- p.m. starting from 15th July 2024, out of which Rs.30,000/- p.m. would be appropriated towards the arrears of Rs.5,64,000/- and the sum of Rs.20,000/- p.m. would be for payment towards maintenance of that particular month, as per the order of the Family Court, Thane dated 29th June, 2016.

e) The Respondent-husband has further agreed and undertaken that as per the order dated 29th June, 2016 he shall continue to pay the amount of Rs.20,000/- p.m. towards maintenance until such time the said order of the Family Court, Thane is not modified in any manner.

5. What is stated by us above is also, in principle, confirmed by the Respondent-husband in his affidavit dated 15th March 2024. This order has been passed in the presence of the Applicant/Appellant-wife [who is present in Court], and who has positively told us that she is agreeable to this order.

6. The Interim Application is disposed of in the aforesaid terms. However, there shall be no order as to costs.

7. 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.]