
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.13160 OF 2023
IN
FAMILY COURT APPEAL (L) NO.5646 OF 2020

Mr. Nankishore Ghanshyamlal Applicant

IN THE MATTER BETWEEN

Mrs. Priti Nankishore Appellant

Versus

Mr. Nankishore Ghanshyamlal Respondent

Ms Vrushali Kabare, Advocate for Applicant/Appellant.

Mr. Mehul Jain i/b. Namani Law Associates, Advocate for Respondent-Wife.

Mrs. Priti Nandkishore, Respondent-Wife is present in Court.

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

DATE : FEBRUARY 02, 2024

P. C.

1. The above Interim Application is filed by the respondent-husband seeking a stay of the execution proceeding being R.D. No.82 of 2020 filed by the appellant-wife in the Family Court, Bandra, Mumbai for execution of the Judgment and Decree dated 31st January, 2020 passed by the Principal Judge, Family Court, Bandra,

Mumbai in Petition No.A-9 of 2018 till a decision is rendered in Appeal No.313 of 2017 pending in the Court of Sessions, Borivali Division at Dindoshi, Mumbai.

2. After hearing the Learned Counsel for the parties, we find that this Interim Application is wholly misconceived. The respondent-husband has not challenged the Judgment and Decree dated 31st January, 2020 passed by the Principal Judge, Family Court, Bandra, Mumbai in Petition No.A-9 of 2018. He has challenged an Order dated 24th October, 2017 passed in C.C.No.2600188/DV/2016 by the 26th Metropolitan Magistrate's Court, Borivali, Mumbai, which granted maintenance of Rs.10,000/- (per month) to the appellant-wife; Rs.10,000/- (per month) each of the two children; and Rs.10,000/- (per month) for accommodation (aggregating to Rs.40,000/- per month). That order has been challenged. The respondent-husband has failed to get any stay from that Court. The execution proceedings, namely, R.D.No.82 of 2020, is filed to execute the Judgment and Decree dated 31st January, 2020 passed by the Family Court, Bandra, Mumbai.

3. Once this is the factual situation, and considering that the judgment of the Family Court is not challenged by the respondent-husband, he cannot seek any relief in the appeal filed by the

appellant-wife from the said Judgment and Decree.

4. In these circumstances, we find no merit in the above Interim Application. It is accordingly dismissed. Purely out of mercy, we do not pass any order for costs.

5. 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.]