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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 11259 OF 2024
IN
WRIT PETITION NO. 292 OF 2024**

Suman Harsh Thaker

... Applicant

Vs.

Harsh Mahesh Thaker and Another

... Respondents

Mr. Pratik Sabrad a/w. Mr. Sarvesh Deshpande and Mr. Pratik Ingale
and Mr. Suresh Sabrad for the Applicant.

Ms. Kanchan Talreja a/w. Mr. Prashant Mairale and Ms. Himneel
Borse for the Respondent.

Ms. Priyanka B. Chavan, AGP for the State.

CORAM : GAURI GODSE, J.

DATE : 8th AUGUST 2024

ORDER :

1. This application is for permitting the applicant to withdraw the amount towards interim maintenance deposited by respondent in the application i.e. the petitioner.

2. Learned counsel for the applicant submits that the Writ Petition was filed for challenging the order of interim maintenance passed

under Section 24 of the Hindu Marriage Act, 1955. By order dated 10th May 2024 this court had granted time of four weeks to the husband to deposit the outstanding amount of arrears of Rs. 5,40,000/-. He submits that the conditional time granted as per paragraph 6 of the order dated 10th May 2024 expired on 7th June 2024. He submits that since the amount was not deposited within time, the petition stood dismissed. He further submits that the applicant-wife be therefore permitted to withdraw the amount.

3. Learned counsel for the respondent-husband has tendered an affidavit in reply to the application. Reply is taken on record.

4. Learned counsel for the respondent submits that the applicant-wife has obtained an interim order of maintenance by committing perjury. Hence, she may not be permitted to withdraw the amount.

5. It is not in dispute that the Writ Petition was dismissed for non-compliance of the directions issued by this court. It is further not in dispute that there is no application filed for extension of time to comply with the directions issued by this court and for restoration of the Writ Petition. Hence, the order of maintenance passed by the Family Court on 8th May 2023 on date stands confirmed. Hence, I do not see any

impediment to the applicant-wife to withdraw the amount deposited by the husband in the Family Court.

6. So far as the allegation of perjury is concerned, the respondent is always free to file appropriate proceeding before the appropriate court. Only the allegation of perjury cannot be a ground to refuse permission to the applicant-wife to withdraw the amount, when the petition already stands dismissed.

7. Hence, interim application is allowed in terms of prayer clause (b). Amount deposited by respondent-husband in the Family Court be paid to the applicant-wife on production of authenticated copy of this order.

[GAURI GODSE, J.]