



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FAMILY COURT APPEAL NO. 58 OF 2019

Umakant Baburao Honrao,
Age : 35 years, Occu : Service and Agril.,
R/o. Tondar, Tq. Udgir, Dist. Latur,
at present r/o : Zilla Parishad Prashala Tarandale No. 1,
Tq. Kankawali, Dist. Sindhudurg.

...Appellant
[Orig. Respondent]

Versus

Sau. Varsha Umakant Honrao Patil,
Age : 34 years, Occu: Household,
R/o. C/o Belkunde Niwas,
Mantri Nagar, Latur, Tq. & Dist. Latur.

...Respondent
[Orig. Petitioner]

.....
Mr. Pratap G. Rodge – Advocate for the Appellant
Mr. M. L. Dharashive – Advocate for Respondent
.....

WITH
CIVIL APPLICATION NO. 9248 OF 2019
IN
FAMILY COURT APPEAL NO. 58 OF 2019
.....

CORAM : R. G. AVACHAT
AND
NEERAJ P. DHOTE, JJ.

DATED : 21ST FEBRUARY, 2025

PER COURT : -

1. Heard the learned Advocates appearing on behalf of the respective parties.

2. The learned Judge of the Family Court at Latur decided Petition No. C 23/2017 by Judgment and Order dated 29.04.2019. The said order is under challenge in this Appeal. By the said order, the

Appellant has been directed to pay a sum of Rs. 8000/- and Rs. 5000/- per month to wife and son, respectively, towards maintenance, with a further direction not to alienate his undivided share in the land bearing Gat No. 128/N/1, 138/2, 153/2, and G.P. House No. 684, all situated at village Tondar, Tal. Udgir.

3. Upon hearing all the parties, what has been realized is that the Appellant's right to cross-examine the Respondent and her witnesses was forfeited on account of his failure to pay the arrears of maintenance, and the matter proceeded further without the cross-examination of the witnesses. The Appellant could not lead his evidence. As such, the matter came to be heard without giving the Appellant a proper opportunity to put-forth his case. The Appellant has been serving with Zilla Parishad. It is now informed that all the arrears of maintenance have been cleared, and each month's maintenance amount is being paid to the Respondent/Wife and her son on deduction from the monthly salary.

4. Since the matter has been decided without affording the Appellant an opportunity of hearing, we allow the Petition in terms of the following order : -

ORDER

[i] The Judgment and Order dated 29.04.2019 is set aside, and Petition No. C 23/2017 is restored to the file of the Family Court, Latur. However, we maintain the operative order regarding the

grant of maintenance and the direction not to alienate or create third-party interest.

- [ii] The said order be treated as an interim order for consideration before the Family Court.
- [iii] The parties to the petition are at liberty to adduce additional evidence. The Family Court shall give the Appellant full opportunity to cross-examine the Respondent and her witnesses, and adduce his evidence, and then decide the matter within a period of eight (8) months from the date of receipt of a copy of this order along with the Record and Proceeding, if any.
- [iv] Record and Proceeding, if received, be sent back to the learned Trial Court.
- [v] The Appeal stands disposed of.
- [vi] Pending Civil Application/s, if any, stand/s disposed of.

[NEERAJ P. DHOTE]
JUDGE

[R. G. AVACHAT]
JUDGE

SG Punde