

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 11272 OF 2025
IN
FAMILY COURT APPEAL [ST.] NO. 30528 OF 2025

Vinod Sopan Kadam.

...Applicant.

Versus

Komal Mahesh Lembhe.

...Respondent.

Mr. Sujit Nikam i/b Shailesh Chavan for Applicant.

Coram : M. S. Karnik &
Ajit B. Kadethankar, JJ.

Date : December 2, 2025.

P. C. :

1. Heard.
2. This is an application seeking stay to the implementation and operation of impugned order dated 30th September 2023 passed by the Family Court at Satara below Exhibit-85 in Marriage Petition No. A-230 of 2022.
3. Feeling aggrieved by the judgment and order dated 30th September 2023 passed by the Family Court at Satara below Exhibit-85 in Petition No.A-230 of 2022, the original Respondent–husband has preferred family court appeal.
4. After scrutinising the evidence, learned Trial Court granted maintenance @ of Rs.3,000/- per month to the wife and @ of Rs.5,000/-

per month each to the son and daughter.

5. Learned Counsel for the Applicant would submit that learned Trial Court has not assessed the evidence properly and has not appreciated that Applicant is already paying EMI by reason of which he is unable to pay such maintenance. He also submits that right now the Applicant is retired and getting pension.

6. We find that learned trial Court has awarded maintenance as aforesaid after scrutinizing the evidence and after considering the facts and record. It is also admitted that Applicant was serving in Border Security Force and was getting salary of more than Rs.78,000/- per month.

7. It can be seen that findings rendered by the learned Trial Court as also the entitlement of wife and children of Applicant are the result of adjudication of application after appreciation of evidence. Every contention of the parties has been appreciated and has been considered by the learned Trial Court.

8. It is pertinent to note that there is no dispute as regards the *inter se* relationship of parties. The unfortunate litigation between the husband and wife constrained the wife to seek alimony from Applicant. After considering this aspect of the matter together with the ability of Applicant to pay, the learned Trial Court has passed the impugned order for payment of maintenance.

9. We are aware that Family Court Appeal being the First Appeal in nature, the Applicant has right to re-agitate his case even referring to the evidence.

10. Applicant has prayed for blanket stay to the execution and implementation of the order dated 30th September 2023 passed by the Family Court at Satara below Exhibit-85 in Marriage Petition No. A-230 of 2022. The order is inasmuch as a money decree.

11. Learned Counsel for the Applicant would submit that Applicant is served with a notice for recovery of arrears amounting to Rs.1,17,000/-. He would further submit that Applicant is *bona fide* to pay maintenance, however, he could demonstrate how the findings rendered by learned Trial Court are erroneous and that how the quantum of maintenance could be reduced.

12. In the light of this, application is disposed of with following directions.

- (i) The execution and operation of the impugned order dated 30th September 2023 passed by Family Court at Satara below Exhibit-85 in Marriage Petition No. A-230 of 2022 is stayed to the effect of arrears worth Rs.52,000/- only.
- (ii) Applicant shall deposit an amount of Rs.65,000/- in the learned Trial Court within a period of 2 months from today.

- (iii) Applicant shall regularly deposit the maintenance amount as ordered by learned Trial Court vide its order dated 30th September 2023 passed below Exhibit-85 in Marriage Petition No. A-230 of 2022.
- (iv) Respondent-wife shall be entitled to withdraw the amount so deposited by the Applicant upon executing usual undertaking.

[Ajit B. Kadethankar, J.]

[M. S. Karnik, J.]