

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 6942 OF 2025
IN
FAMILY COURT APPEAL (STAMP) NO. 33427 OF 2018**

Amrit Pal Singh Sehmees ...Applicant/Org. Respondent
Versus
Tript Kaur Sehmees D/o. Harjit Singh Lall ...Respondent/Org. Petitioner

Mr. Mohd. Riyaz h/f. Mr. Harshal Suryawanshi for the Applicant.

**CORAM : G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.
DATE : 17 APRIL 2025**

P.C.:

1. By this interim application, the applicant/appellant has prayed for the following reliefs:-

- a. allow the present Application.
- b. Grant the Applicant/Original Respondent three month's time to comply with the Order dated 13.03.2019 of this Hon'ble Court and the delay. That there is a delay of 2 years 290 days in preferring present application which may kindly be condoned.
- c. Restore the Family Court Appeal bearing (St.) No. 33427 of 2018 titled Amrit Pal Sehmees Vs. Smt. Tript Kaur Sehmees filed before this Hon'ble Court to its Original Number and stage.
- d. Stay further proceedings of the Family Court Mumbai at Bandra in Petition No. RD-476 of 2018.
- e. That the Order dated 10/03/2022 passed by Ld. Judge Family Court, Bandra, in RD-476 of 2018, thereby permitting the Respondent to carry the letter to the immigration Authorities for urgent execution as well as direction to issue look out circular (LOC) against the Applicant may kindly be stayed.

f. Ad-interim reliefs in terms of prayer clause (d) and (e) may kindly be granted pending the present Application.

g. any other further Order(s) or direction(s) as this Hon'ble Court may deem fit and proper under the facts and circumstances of the present case may kindly be passed in favour of the Applicant/ Original Respondent."

2. This interim application has been filed by the applicant/husband in the aforesaid Family Court Appeal which assails the judgment and order dated 09 April 2018 passed by the Principal Judge, Family Court at Bandra, Mumbai in Petition No. A-534 of 2015. From the record, it is seen that on 13 March 2019 on Civil Application No.72 of 2019 a co-ordinate Bench of this Court noting that the execution proceedings as instituted by the respondent/wife were at the advanced stage, granted an interim protection to stay to the execution proceedings, however, on the condition that till the adjourned date of hearing, the applicant shall deposit a sum of Rs.5 Lakhs before the Family Court and upon such deposit, it would be open for the respondent/wife to withdraw the same. The said order is required to be noted which reads thus:-

"1. This Civil Application is filed by the Appellant/husband seeking the condonation of delay in filing of Family Court Appeal. Learned Counsel Ms.Siddh Vidya appearing for wife prayed for time for filing reply.

2. On her request stand over to 10/04/2019. The learned Counsel for the Appellant submitted that the wife has filed proceedings for executing the Judgment of the Family Court concerning maintenance. He has submitted that the entire

proceedings had gone exparte and therefore the Appellant could not bring to the notice of the Family Court that the wife has independent source of income. These allegations, ofcourse, the Counsel for the Respondent, denied.

3. When the present proceedings are being adjourned at the request of Respondent Wife and when the Appellant Husband is facing execution, which is at the advanced stage, we would like to protect the Appellant Husband for the interim period. This, however, cannot be done unconditionally. Two undisputed facts are that sizable arrears of maintenance arise out of the judgment of Family Court and the Appellant earns sizable income, being employed in merchant navy, even after considering the statement of Counsel for the Appellant that, recently he has been laid off.

4. Under such circumstances, there shall be stay against the execution proceedings till next date of hearing on the condition that before the returnable date, the applicant shall deposit a sum of Rs.5 lakhs before the Family Court. Upon such deposit, it would be open for the Respondent Wife to withdraw the same.

5. It is clarified that this arrangement we have made without prejudice to the rights and contentions of either side.”

3. The applicant/husband however did not comply with the said order, which was noted by a co-ordinate Bench of this Court in an order dated 09 August 2019 passed on Civil Application No. 72 of 2019. The Court observed that even after about five months had passed, the applicant/husband had not complied with the order dated 13 March 2019, in view thereof, the civil application, seeking condonation of delay in filing the family court appeal, was rejected. The interim stay to the execution proceedings was also vacated and the applicant/husband was granted liberty to move this Court, if he complies the order dated 13 March 2019. In view of disposal of the said civil application, the family court appeal as well as

other civil applications were also disposed of. The order dated 09 August 2019 to which we have the aforesaid reference is required to be noted which reads thus:-

“1. By this Civil Application, the applicant is seeking condonation of delay in filing Family Court Appeal. By order dated 13.3.2019, this Court granted conditional stay. Paragraphs 3 and 4 of the said order are reproduced hereunder:-

“3. When the present proceedings are being adjourned at the request of Respondent Wife and when the Appellant Husband is facing execution, which is at the advanced stage, we would like to protect the Appellant Husband for the interim period. This, however, cannot be done unconditionally. Two undisputed facts are that sizable arrears of maintenance arise out of the judgment of Family Court and the Appellant earns sizable income, being employed in merchant navy, even after considering the statement of Counsel for the Appellant that, recently he has been laid off.

4. Under such circumstances, there shall be stay against the execution proceedings till next date of hearing on the condition that before the returnable date, the applicant shall deposit a sum of Rs. 5 lakhs before the Family Court. Upon such deposit, it would be open for the Respondent Wife to withdraw the same.”

Even after about five months have passed, the applicant has not complied with the order dated 13.3.2019. In view thereof, this Civil Application seeking condonation of delay in filing the Family Court Appeal is rejected. Stay vacated. However, the applicant shall be at liberty to move this Court if he complies the order dated 13.3.2019.

2. In view of disposal of this Civil Application, the Family Court Appeal as well as other Civil Applications are also disposed of.”

4. It is on the above backdrop, the present application has been filed which is after a delay of almost 2 years and 290 days as seen from the

prayers which we have noted hereinabove. Admittedly the order dated 09 August 2019 is not complied under which liberty was granted to the applicant/ husband to move this Court only on the condition that he complies the order dated 13 March 2019. Thus the respondent/wife has not been paid maintenance as directed by the Court in its order dated 13 March 2019 and it is after such default which, as on date would amount to a default of almost 6 years, the applicant/husband intends to revive the appeal.

5. Upon perusal of the memo of the interim application, we are not satisfied with the reasons as set out including the explanation on non-compliance of the order dated 13 March 2019 which was to be complied within a period of three months, purportedly on the ground that in March 2020 there was Covid-19 pandemic. Such reason is ex-facie untenable nay false considering that the compliance was to be made almost a year prior to the onset of the pandemic.

6. From the reading of the memo of the interim application, we find that there is no justifiable cause which has been made out to this Court to exercise its discretion irrespective of non-compliance of the order dated 09 August 2019 to restore the proceedings of the Family Court Appeal. We are certainly bound by the order dated 13 March 2019 and 09 August 2019

passed by the co-ordinate Benches of the Court, under which the applicant/husband was under clear mandate to comply with the said orders, however, these orders are not complied by the applicant.

7. In the aforesaid circumstances, we are not inclined to entertain this application. It is rejected accordingly. No costs.

[ADVAIT M. SETHNA, J.]

[G. S. KULKARNI, J.]