

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 15192 OF 2024
IN
FAMILY COURT APPEAL NO. 137 OF 2019**

Mrs. Prema Yogendra Bhoir	... Applicant
Vs.	
Yogendra Lahu Bhoir	... Respondent

Ms. Prema Y. Bhoir, applicant appears in person.
Ms. Divya A. Pawar a/w. Mr. Krishnakant P. Deshmukh for the respondent.

**CORAM: G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.
DATED: 14 FEBRUARY 2025**

P.C.

1. The applicant-Prema Bhoir has filed an affidavit wherein she has stated the details of the various properties and the movable assets of the respondent-Yogendra Bhoir. She has stated before us that the respondent is in arrears of maintenance, which according to her, is an amount of Rs.2,21,000/- as per the statement placed on record by her, which is marked as 'X' for identification.
2. On the other hand, statement of arrears of maintenance has also been placed on record on behalf of the respondent. Learned counsel for the respondent has stated that the arrears is of Rs.1,04,000/-.
3. We have heard learned counsel for the parties on this issue. It is not in dispute that the maintenance would be required to be paid in pursuance

of the order dated 5 June, 2024 passed by the learned Judicial Magistrate First Class, Thane in proceedings of D.V. No. 400 of 2019 by which an amount of Rs.4000/- per month was directed to be paid. There is another order passed by the learned Magistrate under the provisions of Section 125 of the Cr.P.C. whereby there is a direction to pay maintenance @ Rs.8,000/- per month in the proceedings of Criminal Application No. 56/2015. As there is some ambiguity as to what is the date of Application nos. 11, 20 & 21 filed before the Judicial Magistrate First Class, Court no. 1, Thane in the proceedings of D.V. No. 400/2019, we direct the Registry of this Court to call for a certified copy of the original application so as to ascertain the date on which the application was filed, so that the amounts due can be ascertained. Let a certified copy of the same be forwarded by the concerned Court to the Registry in a sealed cover alongwith a report of the Court in regard to the date of filing of the said applications.

4. Before we delve with the actual issue on the quantum of maintenance due and payable, as the respondent-husband has stated that according to his calculation, the amount would be Rs.1,04,000/-, we direct that without prejudice to the rights and contentions of the parties, the said amount be paid to applicant-wife before 28 February, 2025.

5. The applicant has placed on record an affidavit dated 7 February, 2025 wherein she has set out the details of all the assets belonging to the respondent-husband as also other properties as noted by us hereinabove. She

has stated that it is not possible for her to have any premises on rent with such meager amount of maintenance which she is receiving. She has stated before us that she is presently at the mercy of her friend. She has no house to live whereas the respondent-husband has several properties, the details of which has been furnished by the applicant.

6. Considering the settled principles of law that in the present position when the respondent-husband's petition for divorce has been dismissed, it is deemed that the marriage between the parties is valid and subsisting. It is hence the duty of the respondent-husband to maintain the applicant-wife and provide the same standard of living and whatever benefits he is enjoying for himself to be shared with the applicant. However, this is certainly not happening. It also cannot be countenanced that the respondent prefers to act contrary to law and if he is not permitting the applicant to stay in the matrimonial house, he needs to provide for an appropriate accommodation, as also maintain the applicant financially, as she is unemployed and having no source of income.

7. All these issues are required to be borne in mind before we take up the proceedings and pass appropriate orders in this application. Learned counsel for the respondent intends to take instructions on the affidavit filed by the applicant in regard to the immovable and movable properties.

8. We direct that till the adjourned date of hearing, the respondent-husband shall not deal with any of his immovable properties in any manner whatsoever. He shall also not deal with any of the Fixed Deposits and any other movable assets except to withdraw the money for basic essential expenditure.

9. Let this order be communicated to the Cooperative Societies where the respondent has his properties so that further appropriate orders can be passed after hearing the parties.

10. Insofar as the claim of the applicant on the large amount of arrears due and payable, we shall hear the parties after we receive the record from the Court of Judicial Magistrate First Class at Thane.

11. We may also note that the situation is also quite peculiar, inasmuch as the applicant-wife has stated on affidavit that the respondent-husband has re-married. She has also placed evidence in the form of photograph as annexed to her affidavit. Although a vague rejoinder-affidavit of the husband was filed which does not contain a positive statement that he has re-married, and for this to be ascertained when we passed over the matter today, to enable the advocate for the respondent to take instructions, the time was utilized to place on record an affidavit that the respondent has not re-married as per the allegations of the applicant. Responding to this, the applicant, who appears in person, has with all pains stated that the son born

from the wedlock is staying with the grandmother in different premises and the respondent-husband is staying with a lady, which according to her is a second wife, at a different place. She has made several other allegations.

12. We record that whatever statement and observations we have made are recorded in the presence of the respondent and as made by the advocate on instructions.

13. List the application on **28 February, 2025 (H.O.B.)**.

14. The payment of Rs.1,04,000/- as per the statement submitted on behalf of the respondent-husband is a condition precedent.

(ADVAIT M. SETHNA, J.)

(G. S. KULKARNI, J.)