



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CIVIL APPLICATION NO.922 OF 2024

IN

FAMILY COURT APPEAL NO.37 OF 2022

(Shri Suyog s/o Omprakash Mahalle Vs. Ms. Poonam Suyog Mahalle)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. R.R. Vyas, Advocate for the appellant.
Mr. U.M. Aurangabadkar, Advocate for the respondent.

CORAM : URMILA JOSHI-PHALKE AND PRAVIN S. PATIL, JJ.
DATED : JULY 11, 2025.

By this application, the applicant is seeking modification of the order dated 20/07/2022 passed by this Court in Civil Application No.520/2022 by holding that non-applicant/wife is not entitled for the maintenance on such terms and conditions.

2. As per the contention of the applicant, the instant appeal is preferred at the behest of the applicant/husband challenging the judgment and decree passed by the learned Family Court, Akola thereby dismissing the applicant's petition preferred under Section 12(1)(B) of the Hindu Marriage Act which sought decree of nullity or in alternative decree of divorce on the ground of cruelty under Section 13(1)(iii) of the Hindu Marriage Act. He has also challenged the maintenance order directing to pay the amount of Rs.20,000/- to the non-

applicant/wife from the date of application and amount of Rs.20,00,000/- as a compensation.

3. This application is filed on the ground that during the pendency of the instant appeal, the wife has also filed an application for interim maintenance claiming maintenance @ Rs.50,000/-.

4. As per contention of the applicant that non-applicant/wife is working as a Teacher at Kidzee School, Akola and she earns substantial amount, and therefore, the order passed by this Court dated 20/07/2022 directing to pay the amount of Rs.12,000/- per month by way of interim maintenance to the non-applicant/wife be modified.

5. I have heard learned Counsel for both the sides. Perused the application. In view of the observation of the Hon'ble Apex Court in the case of **Rajnish Vs. Neha [(2021) 2 SCC 324]** by referring the earlier judgment in **In Shailja & Anr. v Khobbanna [(2018) 12 SCC 199]** that merely because the wife is capable of earning, it would not be a sufficient ground to reduce the maintenance awarded by the Family Court. The Court has to determine whether the income of the wife is sufficient to enable her to maintain herself, in accordance with the lifestyle of her husband in the matrimonial home, sustenance does not mean, and cannot be allowed to mean mere survival. In

another judgment in Sunita Kachwaha & Ors. Vs. Anil Kachwaha [(2014) 16 SCC 715] wherein also the Hon'ble Apex Court has considered that the wife had a postgraduate degree, and was employed as a teacher in Jabalpur. The husband raised a contention that since the wife had sufficient income, she would not require financial assistance from the husband. The Supreme Court repelled this contention, and held that merely because the wife was earning some income, it could not be a ground to reject her claim for maintenance. Thus, in view of the settled position of law that merely because the wife is earning, it cannot operate as a bar from being awarded maintenance by the husband. No ground is made out for modification of the order.

6. In the present case also, the non-applicant/wife is earning Rs.6000/- she has every right to lead her life as per the status of her husband, therefore, that amount would not be a sufficient amount to maintain herself. In view of that, no ground is made out for modification of order and hence, the application deserves to be rejected.

7. Hence, the application is rejected accordingly.

(PRAVIN S. PATIL, J.)

(URMILA JOSHI-PHALKE, J.)