



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FAMILY COURT APPEAL NO.07 OF 2025

X

.. Appellant

Versus

1. Y

2. Z

.. Respondents

...

Mr. B. R. Warma, Advocate for the appellant.

Ms. Devyani Sonawane, Advocate h/f Mr. N. L. Chaudhari, Advocate for respondent No.1.

...

**CORAM : SMT. VIBHA KANKANWADI &
HITEN S. VENEGAVKAR, JJ.**

DATE : 07 APRIL 2026

JUDGMENT (Per Smt. Vibha Kankanwadi, J.) :-

. Present appeal has been filed by the original petitioner/plaintiff No.1 under Section 19 of the Family Courts Act to challenge the judgment and order dated 23.10.2021 passed by learned Judge, Family Court, Dhule in Petitioner No.C-31 of 2018 thereby though the maintenance amount granted to her was enhanced, yet according to her it is not proportionate to the salary and standard of the husband/respondent No.1.

2. Before we proceed, the facts which are undisputed are that plaintiff No.1 married to defendant on 19.05.1992. Plaintiff No.2 is their daughter. Now, even plaintiff No.2 daughter got married. The plaintiffs had filed proceedings under Section 125 of the Code of Criminal Procedure before learned Judicial Magistrate First Class, Dhule. Maintenance at the rate of Rs.1800/- per month was granted. There were also proceedings in the nature of Special Civil Suit No.188 of 2011, which came to be decided on 05.10.2013, thereby under Sections 18 and 20 of the Hindu Adoption and Maintenance Act, 1956, the maintenance was granted at the rate of Rs.3000/- to plaintiff No.1 and Rs.2200/- per month to plaintiff No.2.

3. Original plaintiffs have come with the case that the amount that has been granted is now insufficient for their maintenance. The prices of essential commodities have gone up. Plaintiff No.2 has pursued her M.Sc. in computers. The expenses towards her education as well as marriage is borne by plaintiff No.1. The defendant is a Senior Teacher at Sutarwadi, Taluka Roha, District Raigad and his salary is near about Rs.60,000/- per month. He is also having agricultural land and there is nobody who is dependent upon him and, therefore, the maintenance amount be enhanced.

4. In spite of due summons served on the defendant, he appeared through Advocate and sought time to file written statement. In spite of granting several opportunities, he failed to file the written statement and, therefore, by order dated 17.04.2018, the Trial Court has proceeded without written statement against him.

5. The plaintiff has submitted her affidavit-in-chief and produced certain documents. In spite of giving chances, when the respondent/defendant failed to appear, the order has been passed for proceeding the matter without cross on behalf of the defendant on 24.10.2019.

6. After assessing the evidence on record, the learned Judge, Family Court, Dhule, partly allowed the petition. The maintenance amount to plaintiff No.1 was enhanced by Rs.7000/- per month thereby making it at the rate of Rs.10,000/- per month from the date of filing of the application i.e. 19.08.2017. In respect of plaintiff No.2 it is enhanced by Rs.5000/- per month thereby making the total to Rs.7200/- per month from the date of filing of the application i.e. 19.08.2017 till the date of her marriage i.e. 01.05.2018.

7. Heard learned Advocate Mr. B. R. Warma for the appellant and learned Advocate Ms. Devyani Sonawane holding for learned Advocate

Mr. N. L. Chaudhari for respondent No.1.

8. It has been submitted on behalf of appellant/plaintiff No.1 that though the salary slip of the defendant was produced on record showing that in February, 2019 he was getting gross salary of RS.66,952/- and net salary of Rs.41,518/-, yet the enhancement that has been made is too meager. Plaintiff No.1 on oath had stated that she has incurred the expenses in respect of marriage of plaintiff No.2 and prior to that her fees for the education and the computer those were required were produced by plaintiff No.1. In fact, now the salary of the defendant has increased taking into consideration the situation in 2019 and therefore, the subsequent events are required to be considered. The price escalation of the essential commodities has not been properly considered.

9. Learned Advocate for the defendant/respondent No.1 submits that the Trial Court has aptly observed that though the salary slip has been produced, the plaintiff/wife has not demonstrated that she requires amount of Rs.15,000/- for herself and Rs.10,000/- for the daughter. Therefore, the enhancement that was granted cannot be said to be unjust, and the same is sufficient for Plaintiff No. 1.

10. Taking into consideration the rival submissions and pleadings, following points arise for determination. Findings and reasons for the

same are as follows :-

- i] Whether the plaintiffs had proved that there was material change in the circumstances justifying modification of the amount of maintenance ?
- ii] Whether the plaintiffs were entitled to get enhancement in the maintenance amount ?

11. Both the points are taken up together for discussion for the sake of convenience and to avoid repetition. Here it is to be noted that plaintiff No.1 has even entered the witness box and produced and proved the documents on which she want to rely. It included the salary slip of the defendant. Of course, it appears to have been issued by the Headmaster of the School where the defendant is serving as Assistant Teacher and the said Headmaster has not been examined in the matter, yet the fact remains is that whatever has been stated by the plaintiff on oath has gone unchallenged on record. Even if we consider the net salary, yet it can be seen that there is enhancement in the salary as compared to what the defendant was getting in 2011 or 2013 when the Special Suit No.188 of 2011 was filed and decided. Another fact which has gone unchallenged on record is that the entire marriage expenses of respondent No.2 as well as education appears to have been borne by plaintiff No.1. Therefore, taking into consideration the documents on record, it was expected from

the Trial Court to enhance the amount proportionately. Further, when the fact is taken that plaintiff No.2 has married and she cannot be said to be the responsibility of the defendant from 01.05.2018 i.e. the date of marriage of plaintiff No.2, to whom the learned Judge had granted amount of Rs.7200/- per month, it ought to have been considered that after 01.05.2018, the defendant would not be required to pay Rs.7200/- to plaintiff No.2 and after contemplating this situation ought to have increased the amount for plaintiff No.1. A judicial note will have to be taken in respect of the fact that the prices of essential commodities are soaring and therefore, it is difficult for a person to manage the livelihood with meager amount. Note will have to be taken regarding the standard of living and it is the duty of the defendant/husband to give the same standard of living to the wife even after they have separated. No amount has been separately given to mitigate the marriage expenses as well as the educational expenses. All these things prompt us to conclude that the plaintiffs have proved the material change in the circumstance justifying the modification in the amount of maintenance and they are entitled to get enhancement in the maintenance amount. The points are answered accordingly. Though there is no evidence regarding the marriage expenses, yet surely they would have been incurred and for the expenses incurred towards the education, we are granting lumpsum amount under

the head 'Education and Marriage Expenses'. Taking into consideration the above observations, we are of the opinion that whatever enhancement has been granted by the learned Trial Court is on the lesser side and, therefore, it deserves to be increased. Under such circumstance and with the above observations, we proceed to pass the following order :-

ORDER

- I) The Family Court Appeal is hereby partly allowed with costs.
- II) The judgment and decree passed by learned Judge, Family Court, Dhule on 23.10.2021 in Petition No. C-31 of 2018 stands modified as follows :-

“A] The defendant husband is hereby directed to pay enhanced maintenance at the rate of Rs.15,000/- per month in addition to the previously granted maintenance amount of Rs.3000/- per month i.e. making the total to Rs.18,000/- per month from the date of filing of original application i.e. 19.08.2017.

B] No change in respect of the order regarding enhancement to plaintiff No.2.

C] Defendant to pay amount of Rs.2,00,000/- towards the 'Education and Marriage Expenses' of plaintiff No.2.”

III) Decree be drawn accordingly.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm