

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 1832 OF 2024
IN
FAMILY COURT APPEAL NO.108 OF 2011

Vilas Yadav Zimre .. Applicant
Versus
Sharvari Vilas Zimre Alias Ms. Subhangi .. Respondent
Mukund Pawar

WITH
INTERIM APPLICATION NO.897 OF 2022
IN
FAMILY COURT APPEAL NO.108 OF 2011

Sharavari Vilas Zimre .. Applicant
Versus
Vilas Yadav Zimre .. Respondent

WITH
INTERIM APPLICATION NO.2403 OF 2022
IN
FAMILY COURT APPEAL NO.108 OF 2011

Vilas Yadav Zimre .. Applicant
Versus
Sharvari Vilas Zimre Alias Ms. Subhangi .. Respondent
Mukund Pawar

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Mr. K.H. Giri a/w Mr. Pratik Yadav, Ms. Prachi Gupta and Mr. Dhavn Giri for the Applicant in FCA No. 108/2011 a/w IA No. 897/2022 and IA No.2403/2022.

Mr. S.A. Rajeshirke a/w Rahul V for the Applicant in IA No. 897 of 2022.

**CORAM: BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.
DATED : 30th JANUARY, 2026**

P.C:-

1 IA No. 1832 of 2024 is filed by the applicant husband, praying for quashing and setting aside of the orders dated 2/09/2011 and 1/10/2014 in Civil Application Nos.234 of 2010 and 129 of 2014, respectively, which were filed in Family Court Petition No. A-862 of 2006.

The application also seeks initiation of action against the respondent wife for making false and fraudulent statements and averments on oath that she is unemployed and has no source of income, and for deliberately suppressing the truth, that she is employed as a teacher.

On this basis, it is prayed that she should be directed to refund the sum of Rs. 8,57,845/- received by her fraudulently, as no maintenance is payable to her.

2 Another application IA No. 897 of 2022, is filed by the applicant wife in the pending Family Court Appeal, which is already admitted, and through this application, the wife seek enhancement of the maintenance amount for her daughter Mansi, by modifying the earlier order of grant of maintenance passed by this Court on 1/10/2014, when the maintenance amount in her favour was enhanced from Rs. 7,000/- to Rs. 10,000/-.

3 We have heard the respective counsel in both the applications and also representing the contesting respondent respectively.

We have taken note of the order dated 1/10/2014, passed by this Court in Civil Application No.129 of 2014, filed by the wife Mrs. Sharveri Zimre in the pending Family Court Appeal. This order makes reference to the order dated 2/09/2011, passed on Civil Application No. 34 of 2011, by which the respondent husband was cast with an obligation to pay monthly maintenance of Rs. 7,000/-, of which a sum of Rs. 1,500/- was directed to be deposited in a recurring deposit in the name of the daughter so as to secure her future.

The Court, on perusal of the salary slip for the month of July and August, 2014 noting that the husband is already employed and the salary slips indicate that his take-home salary is Rs.26,202/-, deemed it appropriate to cast him with an obligation of payment of maintenance of Rs. 10,000/-, and the amount of maintenance was thus enhanced. The order dated 2/09/2011 earlier passed was accordingly modified.

4 The application filed by the husband pleads that the wife herself had furnished an affidavit referring to her engagement as a teacher, and in the disclosure affidavit, she has categorically stated that she is engaged as an Assistant Teacher, and her monthly income is shown as a gross salary of Rs. 82,837/- per month, as in accordance with salary slip of March, 2022. There is also a reference of deduction of Rs. 68,044/-, which does not include the income tax liability of Rs. 3,500/-.

Relying upon this admission and the information, it is the claim of the husband that the wife had played a fraud in securing the orders in the applications filed by her seeking maintenance for herself

during the pendency of the proceedings before the Family Court and this Court considering her statement that she has no source of income and considering the earnings of the husband, has awarded maintenance of Rs. 5,500/- per month, with a separate amount of Rs. 1,500/- to be deposited in the recurring deposit account in the post office in the name of the daughter.

It is this order which is subsequently modified when the wife filed Application No.129 of 2014 for enhancement, and on 1/10/2014, the Division Bench of this Court enhanced the amount to Rs. 10,000/- in place of the amount of Rs. 7,000/-, by directing that the amount of Rs.1,500/- which was to be deposited in the daughter's name shall continue as it is.

5 In the additional affidavit for disclosure of income and assets liability filed by the wife in IA No.897 of 2022, Mrs. Sharvari Zimre had made a categorical statement to the following effect:-

“4. I say that I am working with Mansarovar Vidya Mandir Kamothe which was initially an unaided primary school run by a minority institution and started receiving grants from the academic year 2016-17. I say that the amount received till it became aided was a very meager amount and not aware about confirmation of service. The Applicant as such not getting any income from service. I say that the Applicant tendered unconditional apology for not bringing this fact on record.

5. I joined school on total honorarium of Rs 1500/- per month form academic year 2008-2009

6. I say that it was increased to an honorarium of Rs 4000/ month from academic year 2012 which I got the same till the academic year 2015-16.

7. I say that from the academic year 2016-17 upto 2017-18 I received an actual salary from my employer of Rs 20,000/ month when my salary at relevant time was as per record Rs 35000. I was required to take a loan of Rs 4,00,000/ at that time.”

6 As indicated above, the wife had admitted that she has a regular source of income in the form of salary from 2017 onwards,

and she is contributing towards maintenance of her daughter, who is now pursuing her education, and she has also contributed a sum of Rs. 45,000/- annually towards LIC policy taken in the name of her daughter, and from 2015, she is depositing a sum of Rs. 12,000/- per annum in Sukanya Post deposit.

The wife has also made a categorical statement that on filing the application, she relinquished her maintenance claim, and in any case, no amount of maintenance was paid by the husband from January, 2019 to December, 2021, and he is in arrears, and according to the application and the affidavit filed by the wife, from January 2022, the arrears of maintenance are not cleared.

7 We have heard the respective counsel in both the applications, and we appreciate the honest stand adopted by the wife. In any case, we take judicial note of her statement on oath that since she was working in an unaided primary school, which started receiving grant only from the academic year 2016-17, what she has stated cannot be doubted, that she was only receiving an honorarium of Rs. 1,500/- per month from the academic year 2008-2009. It is not unknown for unaided schools to shell out a petty sum for the staff being engaged, but the applicant has admitted that the school started receiving grant from 20016-17, and she received her regular salary, the details of which are offered by her openly.

8 The husband, except making a statement that the wife was engaged as an Assistant Teacher, has failed to bring any evidence on record to demonstrate her earnings, and that she was capable of taking care of herself as well as her daughter.

In any case, we do not find that she has made any false statement, and definitely, in our view, no fraud is played upon the Court, as we find that on both the occasions, the order of maintenance was passed by this Court initially directing payment of sum of Rs. 7,000/-, which was subsequently enhanced to Rs. 10,000/-.

We, therefore, do not find any merit in the application filed by the applicant husband, who seeks recovery of the amount and request the Court to take action for the alleged fraudulent deeds of the respondent wife. Hence, we dismiss the application.

9 Coming to the Application, i.e., IA No. 897 of 2022, filed by the wife, who on giving the necessary details in an additional affidavit filed by her on 4/02/2023, and we also have on record the salary slip of Vilas Yadav Zimre, designated as Senior Superintendent in Pay Level 8 (47,600-1,51,100) with a basic pay of Rs. 53,600/-, working in the Regional Passport Office, Worli, Mumbai.

The salary slip placed on record along with IA No. 897 of 2022 has reflected the salary for the month of March, 2022, and definitely, the salary must have hiked in the year 2025-26, as he must have moved to the next pay level.

We are informed that the daughter is now pursuing her Pharmacy course in the third year, and she is a girl aged 21-22 years, and definitely has needs and requirements, apart from her requirements towards acquiring necessary qualifications. The mother admittedly is contributing by investing some money for her future and is also catering to her needs. However, the father is only contributing Rs. 10,000/- per month, and that too, he is in arrears, as

per the affidavit filed by the wife.

10 We find in the additional affidavit filed by the applicant wife in support of her interim application seeking for maintenance, a following statement :-

“2. I say that the Applicant has filed aforesaid Application for modifying the earlier order of maintenance by relinquishing her share of amount of Rs. 4000/month after December 2018 onwards and further for enhancement of amount of maintenance from Rs 6,000/- towards share of Mansi to Rs. 25000/- from January 2022 in view of change in the circumstances of substantial increase in the expenditure including educational and other expenditure for maintenance of daughter Mansi who was then studying in XI Science aspiring to prepare for NEET so as to get admission to MBBS degree course and considering substantial increase in the income and salary of Respondent no.1. Respondent is in arrears of Rs. 16,000/- till December 2021 and Rs. 2,58,000/- since January 2022 (Total 2,74,000/- As the applicant has relinquished her share of the amount of Rs 4000/- month after December 2018). I say that the Applicant has paid Rs. 1,41,000/- annual fees plus Rs 9000 Exam fees thus a total 3,00,000/- educational fees for 1st and II and years are paid by the Applicant.”

11 The affidavit also proceeds to state that the daughter, being admitted in D.D. Vispute College of Pharmacy and Research Center, Panvel, has incurred the following expenses:-

“4. I say that the details of the Bank account of the College of Mansi and the fees structure for the Third year B Pharmacy Degree course is as under

Tuition Fees- 1,41,000/-

Examination and other fees 9,000/-

College Bank details are Principal Shri D.D. Vispute College of Pharmacy and Research Center

Union Bank,k New Panvel Branch.

Account no- 165111100000982

IFSC Code UBIN0816515”

12 In the wake of the statements made in the affidavit by the applicant, and taking into consideration the paying capacity of the husband, which is clearly emerging through the salary slip, and since he is already in service, and definitely his take-home has increased,

as he ought to have been placed in a higher pay band, we find that a case is made out by the applicant wife for enhancement of maintenance towards her daughter, and we enhance the said amount from Rs.10,000/- to Rs. 20,000/-, out of which 1,500/- shall be continued to be contributed in the deposit fund, as directed by the earlier orders passed by this Court.

We direct the amount to be deposited monthly in the account of the daughter, the details of which are given in the affidavit.

As far as the arrears mentioned in the additional affidavit are concerned, we permit the respondent husband to clear them within a period of six months from today, by depositing it in installments.

13 Interim Application No.897 of 2022 is allowed by enhancing the amount of maintenance from Rs. 10,000/- to Rs. 20,000/- to be paid towards the daughter, which will cater to her educational expenses. Needless to state, her mother, is also duty-bound to contribute towards her educational expenses, and she shall continue to do so.

14 As far as the Appeal is concerned, which raises a challenge to the judgment and decree of the Family Court dissolving the marriage, the counsel for the appellant to take instructions whether she is desirous of continuing with the challenge, or whether some mutual arrangement can be worked out between the parties. In the meantime, we also direct the counsel for the appellant to prepare a private paper book for hearing of the appeal finally.

List on 27/02/2026, under the caption "For Directions".

(MANJUSHA DESHPANDE)

(BHARATI DANGRE, J.)