

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

***INTERIM APPLICATION NO.12941 OF 2024
IN
FAMILY COURT APPEAL NO.105 OF 2024***

Shreyashri Nikhil Phadke
Also known as Shryashri Datar
Versus

Nikhil Suhas Phadke

....Applicant/Appellant
(Original Respondent)

... Respondent
(Original Petitioner)

Ms. Jai Kanade with Ms. Janhavi Joshi i/b Mr. Rahul Shirgavkar
for the Applicant/Appellant.

Mr. Rohit Joshi for the Respondent.

***CORAM: BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.***

DATE : 10th APRIL 2026

P.C. :

1. The applicant has filed this application seeking stay to the impugned judgment and order granting decree of divorce, and also seeking directions for enhancement of the amount of maintenance granted by the Principal Judge, Family Court, Thane to Rs. 1,50,000/- per month towards the maintenance of applicant and her minor

daughter-Shrinidhi. This application is filed pending the final decision in the appeal.

2. During the course of hearing the learned advocate for the respondent-husband informed this Court that, after grant of decree of divorce the respondent has already remarried. In view of the remarriage of the respondent, the prayer for stay to the impugned judgment and decree, would not survive, however, we may proceed to decide the prayer for maintenance.

3. It is the contention of the applicant that the impugned judgment has been passed by the learned Judge Family Court, without appreciating the evidence on record, thereby granting decree of divorce on the ground of cruelty and desertion. While granting the decree of divorce, notably no order granting maintenance in favour of the applicant has been passed by the learned Judge of the Family Court. Only meager amount of Rs. 40,000/- is granted towards the welfare of their daughter. It is the contention of the learned advocate

appearing for the applicant that the applicant is residing on Leave and License basis for which she is required to pay an amount of Rs.20,000/- per month. Her total outgoing expenses inspite of modest living standard is about Rs.1,06,500/-, she is receiving only an amount of Rs. 40,000/- per month towards maintenance of the minor child which is totally insufficient.

It is submitted that their daughter has a medical condition which requires huge expenses. Presently, the daughter is in 8th Standard and her expenses for education are also going to substantially increase day-by-day, as she progresses in higher classes, she would be required to take private tuitions along with other activities. According to the learned counsel, the respondent is drawing a salary of Rs.2.5 lakhs per month, therefore, he can easily shell out atleast 50% of his salary for the maintenance of his wife and child. The respondent is a senior Army Officer, therefore, being his wife, applicant along with their child is entitled for similar standard of living. The respondent does not have any other dependents, his parents are retired employees of bank, and receive monthly pension, hence, all his salary is at his disposal. It

is submitted that, applicant is not employed as she needs to take care of their daughter, who needs to be monitored due to frequent attacks of Epilepsy. The daughter requires regular monitoring and neurological consultation due to intermittent attacks of seizures. The applicant is single-handedly taking care of their daughter; hence, the maintenance awarded is not sufficient.

4. Per Contra the learned advocate for the respondent-husband submits that, as directed by the Family Court, Thane, he has been regularly paying an amount of Rs.40,000/- per month to the applicant. She has suppressed the fact that, during the pendency of the proceeding, the applicant had approached the Armed Forces Tribunal in the year 2021/2022, seeking relief of maintenance. The Armed Forces Tribunal has granted an amount of Rs.30,000/- per month to the applicant vide order dated 24th June 2022, for a maximum period of 3 years. He has also, paid an amount of Rs.10,28,000/- for a period starting 3rd August 2019 till 5th August 2021. Apart from paying the maintenance of Rs.40,000/- per month, he has also been regularly

paying for his daughter's school fees since past 5 years. The applicant has failed to make out any ground for enhancement of the amount granted by the Family Court, hence, her application deserves to be dismissed.

5. The learned advocate for the respondent-husband during the course of the arguments has submitted that, he is already taking care of the educational expenses of their daughter and undertakes to do so in the future. Being a daughter of an Armed Forces Personnel, she is also entitled for all medical benefits.

An affidavit-cum-undertaking is filed by the respondent where he states that, being a member of Indian Armed Forces, he has benefit of Medical Card issued by the Army for him as well as his dependents for their medical expenses. He also has procured and provided the Army Medical Card to his daughter. He has also undertaken to pay an incidental expenses incurred towards the education and hobbies of his daughter, apart from the actual educational expenses i.e. school fees and tuition class fees of his

daughter.

6. After hearing the parties and perusing the documents, we find that although the respondent-husband is taking care of the expenses of education of their minor daughter, the applicant is unable to maintain herself along with the minor daughter from the maintenance awarded. It is submitted that although applicant was employed, she had to resign due to the medical condition of their daughter, who requires constant care and attention. Apart from the educational expenses, sundry expenses like conveyance, medication, doctor consultancy, mobile and electricity bills, grocery, clothing, and other necessities needs to be taken care for which Rs.40,000/- per month is an insufficient amount. In fact, Rs.20,000/- per month is required for house rent alone which leaves very little, to take care of rest of the necessities.

The salary slip of 31st January 2025 placed on record by the respondent pursuant to the orders of this Court, discloses that after deduction, the salary received by him is Rs.1,18,839/-. Considering the

deficit in the actual expenses of the applicant and the maintenance received for the minor child, we find that it would be appropriate to enhance the amount of maintenance of Rs.40,000/- per month granted by the Family Court, Thane to Rs.60,000/- per month with 5% rise in the said amount each year for the next 3 years. This amount shall be excluding the amount of educational expenses plus medical expenses, which the respondent has undertaken to take care for.

7. In the result, the Interim Application is allowed. Accordingly, we pass the following order:-

ORDER

(i) Pending the appeal, the respondent-husband is directed to pay an amount of Rs.60,000/- per month to the applicant-wife towards the maintenance of their daughter with 5% rise in the said amount each year for the next 3 years;

(ii) The respondent shall take care of the educational expenses such as school fees, tuition fees, coaching classes, hobby classes, as well as all incidental expenses such as conveyance etc. of their daughter;

(iii) The respondent shall also take care of all the medical expenses including medicinal therapies; consultation of the doctor and medicines of their daughter.

8. Interim Application is allowed in the aforesaid terms and is accordingly disposed of.

MANJUSHA DESHPANDE, J.

BHARATI DANGRE, J.