

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FAMILY COURT APPEAL NO. 75 OF 2025

Danesh Gojer .. Appellant
Versus
Michele John Gojer .. Respondents
...

Ms.Taubon F. Irani with Ms.Divya Sharma for the appellant
Mr. Sanjay Bhojwani with Naresh Parihar for the respondent.

CORAM : BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ
DATED : 27th FEBRUARY, 2026

P.C:-

1 The Appeal filed by the appellant raises a challenge to the order passed by the Family Court-2 Pune in Civil Miscellaneous Application No.45/2022, being an application filed for modification of decree under section 37 and 38 of the Special Marriage Act, 1954. By the said application filed at the instance of the husband, he sought modification in the maintenance amount which was mutually fixed for the daughter.

2 Heard Ms.Irani, learned counsel for the appellant, who by inviting our attention to the impugned judgment dated 19/4/2025, which has rejected the said application by

answering the issue whether a case is made out for modification of the order of maintenance of the daughter fixed by mutual consent, by answering the same in negative, has dismissed the application.

It is the contention of Ms.Irani that the approach adopted by the Family Court is a hurried one, as by placing on record the roznama of the proceedings, it is her contention that upon the evidence affidavit filed by the applicant, the Court had fixed the matter for cross-examination. Thereafter, even the respondent filed the evidence affidavit on 2/2/2025 indicating that the parties were to be afforded an opportunity to cross-examine each other. However, it is her specific contention that the learned Judge suddenly adopted a U-turn by making reference to the order dated 2/8/2024 passed in two Contempt Petitions i.e. CP No.438/2023 and CP No. 535/2023 and proceeded to pronounce upon the application, thereby rejecting the request for modification of the maintenance amount, the application being filed under section 37 and 38 of the Special Marriage Act.

3 On perusal of the roznama which is placed before us it is noted that on 2/9/2024, the case was adjourned for the examination in chief of the petitioner and on 5/10/2024, the petitioner filed evidence affidavit, and the Court directed that the petitioner shall remain present for cross-examination. Thereafter, on three dates, the matter was adjourned for the cross-examination of the petitioner. On 27/1/2025, it

considered the pursis filed by the respondent and adjourned the matter for passing a 'no cross order' against the respondent. Accordingly, on 27/1/2025, a 'no cross order' was passed against the respondent, thereby denying the opportunity for cross-examination.

Thereafter, the matter was listed for filing of chief affidavit of the respondent, which was filed and all of a sudden, the learned Judge on 19/4/2025, closed the matter for judgment.

4 On hearing Ms.Irani, learned counsel for the appellant and the learned counsel Mr. Bhojwani for the respondent, from perusal of the roznama, including the last date when the Judge directed closure of the matter and ultimately passed an order on 19/4/2025, we must observe that the learned Judge deemed it appropriate to dispose of the application by making reference to the order dated 2/8.2024, but perusal of the order would reflect that it was a concession that was given based on which the Contempt Proceedings were disposed of, as the maintenance of Rs.90,000/- per month was agreed to be paid by the mother of the husband and in no case, according to us, this would have determinative of the application filed by the appellant seeking modification in the maintenance amount.

For this very reason, we quash and set aside the impugned order dated 19/4/2025 and direct the Family Court No.2, Pune, to decide the application filed by the appellant

under Sections 37 and 38 of the Special Marriage Act, seeking modification in the maintenance amount of his daughter from the stage where the proceedings were fixed i.e. the Chief Examination being filed by the petitioner and the respondent being already on record, and by affording an opportunity to both to cross-examine on the same.

We make it clear that the 'no cross order' passed by the learned Judge shall not come in the way in denying the wife an opportunity to cross-examine the appellant.

We expect the proceedings to be concluded within period of four months from today.

Appeal disposed of.

Pending Interim Application stand disposed of.

(MANJUSHA DESHPANDE, J)

(BHARATI DANGRE, J.)