

Order : [Per Manjusha Deshpande, J.]:

1. The Interim Application has been filed by the Applicant seeking directions to the Respondent to pay Rs. 1 lakh per month, towards the interim maintenance to the Applicant, pending the hearing and final disposal of the Family Court Appeal.

2. The Applicant is the Appellant in the Appeal, which is pending adjudication before this Court. The Appeal has been filed by the Appellant-wife against the judgment and decree granted by the Family Court No. 5, Pune, in Divorce Petition P.A. No. 988/2018 for divorce, permanent alimony and custody, which was decided by the Judgment and Order dated 21.03.2023, partially allowing the petition, granting divorce and dissolving the marriage between the Appellant and the Respondent under Section 13(1)(i-a)(i-b) of the Hindu Marriage Act, 1955. The custody of the elder son [REDACTED], was to remain with the respondent-husband, whereas the custody of younger son [REDACTED] was to remain with the petitioner-wife. Costs of Rs.25,000/- were awarded to the petitioner-wife to be borne by the respondent-husband towards litigation cost.

Being aggrieved by the refusal of the permanent alimony, the Appellant-wife has approached this Court. During the
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pendency of the Appeal, the present Interim Application has been moved by the Applicant-wife seeking interim maintenance pending the Appeal.

3. The Application has been filed by the Applicant on the ground that, the Respondent-husband has willfully neglected to provide any financial support to the Applicant, which is his bounden duty. The lifestyle enjoyed during the marriage is a crucial factor. The Applicant's income is insufficient to maintain a similar standard of living post-separation. It is the obligation of the Respondent-husband to bear the financial burden of child care, education, medical expenses, etc.

The learned counsel for the Applicant-wife submits that, the Respondent-husband owns multiple properties on prime locations, on the other hand, the Applicant is struggling to make ends meet and is residing in a rented 1BHK apartment and managing all the expenses related to raising the child. The Applicant is residing in the United States (U.S.), whereas the Respondent-husband resides in India. The income of the Applicant is totally insufficient to maintain herself, more particularly, with the H1B visa limitations, managing the transition of F1 visas and the associated college expenses of their son around USD 60,000 per year for the education of

their elder son, who is studying in Australia.

It is submitted that, although the Applicant is employed, her current work project was stated to be ending in June 2025 and, therefore, there is an uncertainty as to how she would be managing her rent and the daily expenses, without any additional support, hence, she is making a prayer to grant her interim maintenance. It is further submitted that the Applicant's parents are not in a position to support her since they have already retired and are surviving on pension. It is submitted that the Respondent is enjoying a lavish lifestyle. He has various properties, including three houses at Pune, 1 house at Vita, 3 shops in the heart of the city at Pune, and a car. His salary as on 25.09.2015 was Rs.1,150,002/- *per annum*. Reliance is placed on the salary slip of the Respondent, which discloses his income.

4. The learned counsel for the Applicant submits that, there is a series of judicial pronouncements which make the husband legally liable to pay maintenance to the wife even if the wife is earning. It is the primary responsibility of the husband to maintain his wife and children. The present Respondent-husband is an able-bodied man, leading a luxurious life, therefore he has capacity to maintain the Applicant and their

son.

It is submitted that, in order to make a wife eligible for maintenance, it is not necessary that a wife should be destitute without any income. Therefore it is prayed that, the prayer made by the Applicant to grant her interim maintenance of Rs.1,00,000/- deserves to be allowed.

5. The Respondent-husband has filed an affidavit in reply to the Interim Application. Mr. Sarwate, learned counsel for the Respondent submitted that the Appeal filed by the Appellant itself is assailing the order of refusal to grant maintenance; therefore, the same relief cannot be claimed by the Applicant by way of interim relief. So far as the merits of the Application is concerned, the learned counsel submits that the Applicant is gainfully employed in the United States of America (U.S.A.) for several years; i.e. since 2011, and is financially independent. The reliance placed on the salary slips produced with the Application indicate that, she is employed with Mark Infotech Inc., New Jersey, drawing a gross monthly salary of USD 8,700/- and a net monthly salary of USD 6,149.60/-. It is submitted that, despite seeking interim maintenance on the ground of financial hardship, the Applicant has failed to disclose her complete and current financial particulars,

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including her overall remuneration and earnings. Her financial capacity has already been examined by the Family Court while deciding her application under Sections 24 and 26 of the Hindu Marriage Act, 1955. The order of the Family Court has recorded that the Applicant was earning an annual income of USD 1,12,926.78 for the year 2017, and USD 1,09,606.78 for the year 2018. Thus, according to the observation of the Family Court, the Applicant was earning substantially more than the Respondent. He relies on the salary slip of the Applicant for the month of February 2019, which has come on record.

Our attention is further drawn to the observations of the Family Court while deciding the Exhibit-5 Application of the Applicant, wherein the Family Court has observed that, the salary slip of the Applicant for the month of February - March 2019, with her IT returns show that, she was earning USD 1,12,926.78 *per annum*. In the year 2019, she was earning USD 3085 for two weeks; i.e. for half month. This itself indicates that, she was earning more than sufficient income to maintain herself. The interim application filed by the Applicant-wife has been rejected by the Family Court, which has not been assailed by her, therefore, even the present

Interim Application does not deserve any consideration.

6. It is submitted that, before the trial court the parties were directed to file their respective affidavits of earnings and liabilities. Though the Respondent has filed his affidavit, the Applicant has not filed her affidavit. According to the order passed by the Family Court while dissolving their marriage, the custody of the elder son [REDACTED] as given to the husband, and he is taking care of all the expenses of his son; thus, according to him, it is just and proper that the Applicant-wife who is equally capable of earning, should take care of their other son [REDACTED], who has been given in her custody.

It is further submitted that the Respondent is looking after the expenses of the elder son, who is presently pursuing his education in Australia. Apart from the expenses of the elder son, his elderly parents are also dependent on him, who were compelled to opt for voluntary retirement due to health issues. So far as the properties in the name of the family is concerned, according to the Respondent, those properties stand in the name of his father and brother, who have let out those premises. In fact, one shop is already vacated and two shops were on the way of being vacated. According to him, he is the only principal earning member of his family, and

considering the responsibility of his parents; he does not have any spare income to support the Applicant, who is more than capable of taking care of her needs. There is also an averment made in the affidavit filed on 14.06.2025, that he is basically having non-technical background with a basic course of SAP. Due to increasing competition and automation brought by A.I., he is currently employed in IT sector; however, he is in constant fear of losing his job at any moment. It is stated that, after the divorce, he has moved on in his life and married on 14.07.2024; therefore, he has an additional responsibility of his second wife, hence, on that ground also the Application filed by the Applicant does not deserve any consideration.

7. After hearing the rival submissions and going through the papers, we find that the Applicant is residing in United States of America since 2011, and she has disclosed her earnings during the Family Court proceedings as well as in the present Interim Application. The present Application has been verified before the notary public in Maryland, USA. The salary slips placed on record reflect her continued employment. Presently, she is employed with Mark Infotech Inc, New Jersey, and is earning gross monthly salary of USD 8,700, which is reflected from the Earning Certification for the period

01.01.2026 ending 01.31.2026, and the net pay of USD 6186.60. She is holding professional qualifications of BCA, MCA, PMP and SAFe Certifications.

Although she has stated that there is no disposable surplus income due to various expenses which are required to be incurred by her, we do not find any favour in her reason for claiming interim maintenance from the Respondent-husband. Her only excuse is that she is living under extreme financial strain due to exorbitant cost of living abroad.

8. In our view, this cannot be a ground for claiming interim maintenance during the pendency of the Family Court Appeal. The Applicant is a qualified professional, residing abroad since last 15 years, who has brought up two children single-handedly. Even presently, she has more than sufficient income at her disposal, which is proved from the documents placed on record by the Applicant herself. The Applicant has been refused permanent alimony by the Family Court, which is the subject matter of the Appeal pending before this Court. By way of this Interim Application, the Applicant is seeking interim maintenance. Section 24 of the Hindu Marriage Act, 1955 contemplates grant of interim maintenance, pending the matrimonial proceedings. The Section itself contemplates that

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if the Respondent, be it wife or husband has no independent, sufficient means for his or her support and the necessary expenses of the proceedings, the respondent shall pay to the petitioner the expenses of proceedings and monthly expenses of such sum having regard to petitioner's own income and income of respondent. The very object of Section 24 is that, the financially weaker party should be able to defend the proceedings ably and is not left in a vulnerable financial position throughout the proceedings.

9. In view of the scope of Section 24, in our view, the Applicant has failed to make out a case for grant of her prayer in the Application. Hence, the Interim Application seeking interim maintenance is rejected.

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGRE, J.)

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