

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 2954 of 2025****With****CIVIL APPLICATION (FOR STAY) NO. 1 of 2025****In R/FIRST APPEAL NO. 2954 of 2025**

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BHAUMIK RAMCHANDRA KOTAK**Versus****AARTIBEN BHAUMIK KOTAK D/O MANSUKHLAL RANCHODDAS****KHIRAIYA**

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Appearance:**MR DARSHAN K KOTHARI(14004) for the Appellant(s) No. 1****MR NEHUL L DAVE(2411) for the Appellant(s) No. 1****RAJPUROHIT R BHAWARLAL(9420) for the Defendant(s) No. 1**

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CORAM: HONOURABLE MR. JUSTICE ILESH J. VORA**and****HONOURABLE MR. JUSTICE R. T. VACHHANI****Date : 23/07/2026****ORAL ORDER****(PER : HONOURABLE MR. JUSTICE ILESH J. VORA)****Order in Appeal**

1. By way of this appeal, the appellant seeks to challenge the order dated 13.06.2025, passed below Exh.13, in Family Suit No.1553 of 2023.
2. The appellant and the respondent are husband and wife. The appellant-husband by instituting family suit, seeks dissolution of marriage. In the suit, vide Exh.13, the respondent-wife sought expenses of case proceedings. However, after hearing the parties, the Family Court, Ahmedabad vide its order dated 13.06.2025, instead of granting expenses, awarded interim maintenance of Rs.5,000/-.
3. The appellant herein has challenged the said order by preferring the present appeal.

4. We have heard learned counsel Mr. D.K. Kothari for the appellant-husband and Mr. Rajpurohit Bhawarlal for the respondent-wife.

5. Mr. Rajpurohit Bhawarlal, learned counsel for the respondent reiterating the facts of application Exh.13, has stated that, the respondent-wife had not claimed any amount of interim maintenance because the maintenance proceedings filed under Section 125, wherein monthly Rs.15,000/- having been awarded against the appellant-husband and the matter is pending before this Court as the order of maintenance being challenged by the husband. The wife had sought only amount towards the expenses including travel allowances etc. Despite of this, the Family Court did not award any amount towards the litigation expenses and awarded monthly maintenance which was never claimed before the Family Court. In such circumstances, it is submitted that, the necessary order may be passed.

6. Having regard to the facts and circumstances of present case, it appears that, the Family Court failed to appreciate the pleadings and main relief sought under Section 24 of The Hindu Marriage Act. The Family Court ought not to have granted maintenance amount because it has not been claimed by the respondent-wife.

7. For the reasons recorded and considering the peculiar facts and circumstances of the case, the order impugned dated 13.06.2025 passed below Exh.13 in Family Suit No.1553 of 2023 by the Family Court, Ahmedabad is hereby set aside.

8. We made it clear that, setting aside of the order impugned would

not come into way of respondent-wife claiming maintenance under Section 125 of Cr.P.C. and other provisions. It is open for the respondent-wife to claim maintenance under Section 125 and other applicable laws independently and the Court concerned shall decide the claim uninfluenced by any observations and findings made herein.

9. With this observation, the appeal is allowed in aforesaid terms.

Order in Civil Application

In view of disposal of the first appeal, no order is require to be passed in the present civil application. Hence, the present application stands disposed of accordingly.

(ILESH J. VORA,J)

(R. T. VACHHANI, J)

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