

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

WRIT PETITION NO.2682 OF 2014

Sau Varsha Anil Pingale,
Age 41 years, Occu. Nil,
R/o C/o Shri Shantilal Laxman
Sonar, Near Gajanan Baba Society,
Wadi Bhokar road, Deopure,
Dhule, District Dhule

..Petitioner

Versus

Shri Anilkumar Hiralal Pingale,
Age 48 years, Occu. Service,
R/o "Akashwani Kendra",
Shivaji Nagar, Pune

..Respondent

Mr Mukul S. Kulkarni, Advocate for petitioner
Mr A.D. Pawar, Advocate for respondent

CORAM : N.W. SAMBRE, J.

DATE : 17th March 2015

PER COURT

1. An application Exh.9 in Hindu Marriage Petition No.59 of 2013, filed under Section 24 of the Hindu Marriage Act, for maintenance *pendente lite* was rejected by learned Civil Judge, Senior Division, Dhule by order dated 30th January 2014, as such present petition by the wife, seeking interim maintenance.
2. By the order impugned, the Court below has granted an amount of Rs.1,500/- p.m. for meeting the legal expenses.
3. Learned Counsel for the petitioner-wife Mr Kulkarni would urge that the employment of the respondent-husband in All India Radio is not in dispute. According to him, the earlier order passed by the Court

directing to pay Rs.1,500/- p.m. to the petitioner as maintenance was taken into account, whereas the learned Counsel for the respondent-husband submits that there are findings that the petitioner-wife is residing with her brother and that she has sufficient source of income, as she is serving as Laboratory Technician.

4. Perusal of the order would reflect that the Court below has ordered payment of Rs.1,500/- p.m. to the petitioner-wife towards litigating expenses. The basis for passing the said order perhaps appears to be that though the petitioner-wife is not dependent but she is entitled to get Rs.1,500/- p.m. for meeting the legal expenses. When the question as regards grant of maintenance came for consideration, what prevailed before the Court below was the order granting maintenance @ Rs.1,500/- p.m. passed in M.A. No.320/2008, which was not taken to its logical end, as the execution thereof was withdrawn by petitioner-wife.

5. The least that was expected of the Court below while rejecting the application, wherein a prayer for interim maintenance was made, was to consider the entitlement qua pleadings and evidence brought before it and to give independent finding in that regard.

6. The order impugned does not reflect such finding which takes this Court to the conclusion that the order suffers from non-application of mind, as the relevant aspects were not gone into.

7. In view thereof, the order dated 30th January 2014, passed by the Civil Judge, Senior Division, Dhule below Exh.9 in Hindu Marriage

Petition No.59 of 2013 is set aside to the extent of refusing to grant interim maintenance to the petitioner, with directions to the Court below to reconsider the aspect as regards the entitlement of the petitioner for interim maintenance.

8. Parties are in agreement that they shall appear before the Court below with sufficient evidence on 30th March 2015. No further notice shall be necessary.

9. The Court below to consider the evidence brought before it by the respective parties and to decide the application afresh with appropriate findings regarding entitlement of the petitioner for interim maintenance.

10. Writ Petition stands allowed in above terms.

(N.W. SAMBRE, J.)

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