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

WRIT PETITION NO.11803 OF 2014

Kisan Abaji Agale.

..Petitioner

-Versus-

Arti Kisan Agale.

..Respondent

.....
Mr.R.PBhumkar, Advocate for the Petitioner.

.....
CORAM: RAVINDRA V. GHUGE, J.

DATE :- 14th January, 2015

Per Court:

1 The Petitioner has challenged an interlocutory order passed below Exhibit-9 on 14.10.2014 by the learned Principal Judge, Family Court, Aurangabad in Application No.26/2013, thereby directing the Petitioner to pay an interim maintenance of Rs.5000/- per month to his biological daughter, who is the Respondent.

2 The Petitioner contends that he is a Class-IV employee with the Aurangabad Municipal Corporation. He is on the verge of retirement. His first wife has passed away. His son has obtained an appointment on compassionate basis in place of his wife. He is unmarried and he resides with the Petitioner. The Petitioner has remarried and has a daughter born out of the second wedlock.

3 It is further submitted that the Respondent-daughter lives along with the Petitioner under one roof. She has earned scholarship in her college education. Therefore, she does not require any maintenance amount. All amenities in the house are being commonly used by the Petitioner, the Respondent and his son. The electricity charges are being paid by the Petitioner. It is, therefore, submitted that the learned Court below has not considered these facts and has erroneously allowed the application Exhibit-9 and granted an interim maintenance of Rs.5000/- per month by the impugned order dated 14.10.2014, which is made effective from the date of application i.e. 23.06.2014. The Petitioner as yet has not paid any amount to the Respondent pursuant to the impugned order.

4 Having considered the submissions of the learned counsel appearing for the Petitioner, I have gone through the petition paper book with his assistance. The fact remains that the Respondent is a college going student. There have been allegations levelled against the Petitioner as regards an abusive and violent behaviour with the Respondent. This Court is not required to consider those allegations at this stage since an interlocutory order is called in question. The proceedings are pending before the learned Principal Judge, Family Court, Aurangabad.

5 The Trial Court has assigned reasons in support of the impugned order. It has also considered the allegation that the scholarship amount which the Respondent receives has been grabbed by the Petitioner. The younger brother has obtained compassionate appointment in place of the deceased mother. They are living together. The elder brother of the Respondent is also an employee and he resides separately.

6 There have to be certain circumstances in which the Respondent is driven to seek maintenance against her own father. If all of them are said to be living in bliss, circumstances would not have compelled her to seek maintenance. Being an interlocutory order these aspects need to be dealt with by the learned Court below.

7 I do not find that the impugned order directing the Petitioner to pay the maintenance to the Respondent could be termed as grossly erroneous and perverse so as to cause grave injustice to the Petitioner. The Petition is devoid of any merit and same is, therefore, dismissed. The Petitioner shall comply with the impugned order dated 14.10.2014 within a period of THREE WEEKS from today.

(RAVINDRA V. GHUGE, J.)