

ingale

IN THE HIGH COURT OF JUDICATURE AT MUMBAI

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7730 OF 2014

Shri Sadashiv Sakharam Patil ... Petitioner

Vs.

Sou.Vandana Sadashiv Patil ... Respondent

Mr.Amit Sale, Advocate for Petitioner.

Mr.S.J.Ghoghare, Advocate for Respondent.

CORAM : R. G. KETKAR, J.

DATE : 28th AUGUST, 2015

P.C. :

. Heard Mr.Amit Sale, learned Counsel for the petitioner and Mr.S.J.Ghoghare, learned Counsel for the respondent at length.

2. By this Petition under Article 227 of the Constitution of India, petitioner-husband has challenged the judgment and order dated 25/03/2014 passed by the learned Civil Judge, Senior Division, Sangli below Exhibit 20 in Hindu Marriage Petition No. 414 of 2012. By that order, the learned trial Judge partly allowed the application and directed the petitioner to pay interim maintenance of Rs.15,000/- per month to the respondent from the date of the filing of the application till the final decision of the Petition. The learned trial Judge further directed the petitioner to pay expenses of litigation of Rs.5,000/- in lumpsum to the respondent. The learned trial Judge further directed that the payment made in this case shall

be adjusted with the order passed in the application bearing Criminal Miscellaneous Application No. 174 of 2011.

3. In support of this Petition, Mr.Sale submitted that the learned trial Judge failed to appreciate that respondent has instituted proceedings under the Protection of Women from Domestic Violence Act, 2005. The learned trial Judge directed the petitioner to pay maintenance of Rs.15,000/- per month. Aggrieved by that decision, petitioner preferred Appeal before the Sessions Court. Appeal is admitted. As far as interim relief is concerned, the learned Sessions Judge has granted stay subject to petitioner paying Rs.5,000/- per month to the respondent. Mr.Sale submitted that the petitioner is regularly paying maintenance as per order passed by the Sessions Court.

4. Mr.Sale submitted that the respondent went on accepting the amount paid by the petitioner in terms of the order of the Sessions Court. However, during the pendency of the proceedings under Section 13(1)(i-a) & (i-b) of the Hindu Marriage Act, 1955 (for short 'Act') instituted by the petitioner, respondent has filed application Exhibit 20 for interim maintenance and litigation expenses under Section 24 of the Act. By the impugned order, the learned trial Judge has directed the petitioner to pay Rs.15,000/- per month subject to adjustment of the amount of maintenance payable under the order passed in Criminal Miscellaneous Application No.

174 of 2011. He submitted that the learned trial Judge was not justified in awarding maintenance @ Rs.15,000/- per month . He submitted that Section 24 of the Act provides for payment of alimony and under the provisions of Protection of Women from Domestic Violence Act, 2005, payment is made towards maintenance. In short, he submitted that the learned trial Judge awarded exorbitant amount towards interim maintenance.

5. On the other hand, Mr.Ghogare supported the impugned order. He submitted that considering the salary of the petitioner, the maintenance awarded by the learned trial Judge is reasonable.

6. I have considered the rival submissions made by the learned Counsel appearing for the parties. I have also perused the material on record. In paragraph 8 of the impugned order, the learned trial Judge recorded that the petitioner is a Professor and his gross salary is around Rs.55,000/-and his net salary is at least Rs.45,000/-. The learned trial Judge accordingly directed the petitioner to pay Rs.15,000/- per month towards maintenance subject to adjustment of Rs.5,000/- paid by the petitioner in pursuance of the order of the Sessions Court. In view thereof, I do not find that the learned trial Judge has committed any error in passing the impugned order. Reliance placed by Mr.Sale on Section 24 of the Act is also misconceived as it deals with payment of interim maintenance pendente lite and expenses of proceedings. Hence, no

case is made out for invocation of powers under Article 227 of the Constitution of India. Petition fails and the same is dismissed.

(R. G. KETKAR, J.)