

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10883 OF 2014

Amol Ashok Lavate

... Petitioner

Vs.

Radhika Amol Lavate

... Respondent

Mr.A.S. Kulkarni for the Petitioner

Mr.S.S. Shah for Respondent

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: JUNE 25, 2015

P.C.:

1. Rule. By consent of the parties, the petition is called out and heard finally at the stage of admission.
2. The petitioner, who is the original petitioner in Marriage Petition No.77 of 2014 pending before the Family Court, had challenged the order dated 12.9.2014 passed by the Family Court at Solapur below application exhibit 18 thereby awarding Rs.12,000/- per month towards interim maintainance and Rs.10,000/- as cost of legal proceedings under section 24 of the Hindu Marriage Act, 1955.
3. The learned Counsel for the petitioner has submitted that the learned Judge of the Family Court has erred in giving a finding that the

monthly income of the petitioner is Rs.35,000/- to Rs.40,000/- per month. He submitted that no evidence is brought by the respondent to arrive at such conclusion. The petitioner's income is less and it is hardly upto Rs.12,000/- to Rs.15,000/- per month. He further submitted that the learned Judge has erred in relying on a news published in a newspaper and have jumped to the conclusion that the monthly income of the petitioner is Rs.35,000/- to Rs.40,000/-. He further submitted that the respondent is MBA and she is in a position to get work and support herself. He further submitted that the order passed by the learned Judge of the Family Court is illegal and is to be set aside for want of any documentary evidence disclosing his income.

4. The learned Counsel for the respondent/wife while opposing this petition, submitted that the learned Judge of the Family Court considered the monthly income of the petitioner/husband. The petitioner/husband has filed the petition for divorce under section 13(1)(i-a) of the Hindu Marriage Act after 9 months of their marriage. It was a love marriage. The petitioner is a skilled chef and has three hotels in Solapur. He is financially well – off. All these factors are considered by the learned Judge of the Family Court.

5. The issue involved in this petition is short as it is a petition challenging the order under section 24 of the Hindu Marriage Act. The

order discloses that none of the parties could bring any documentary evidence to show the exact monthly income of the petitioner. It is not challenged that the respondent is MBA. However, whether she is employed at that time or not is not on record. Under such circumstances, the petitioner / husband ought to have filed some documentary evidence disclosing his income as the fact of income is within his knowledge. However, he tried to suppress this fact. Under such circumstances, the news article which appeared in the newspaper, relied on by the respondent / wife, is rightly taken into account by the Family Court as it is a news of experience, work and the status of the petitioner in the hotel and catering field. It is mentioned that he is an owner of one hotel i.e., Sugar N Spice and has also started two restaurants by name Cafe MH13 and Hotel Celantro. The submissions of the learned Counsel for the petitioner that this is a news item in the newspaper and ought not to have been considered because there is no truth, cannot be accepted. The Family Court has rightly relied on it at this stage. I do not find the order either illegal or perverse. Hence, no interference is called for.

6. Petition is therefore dismissed.

(MRS.MRIDULA BHATKAR, J.)