

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.6733 OF 2015

Bhimrao Aantu Lagade : Petitioner
Versus
Sou. Ujwala Bimrao Lagade and anr. : Respondents.

Mr. K V Patil for the Petitioner.
Mr. P D Dalvi for the Respondent Nos. 1 and 2.

CORAM : R. M. SAVANT, J.
DATE : 26th August 2015

P.C.

1 Though the above Petition is shown in the caption of “Orders”, with the consent of the learned counsel for the parties, the same is taken up for hearing as to admission.

2 The above Petition takes exception to the order dated 19/12/2012 passed by the learned 4th Joint Civil Judge Junior Division, Ichalkarnaji by which order a direction came to be issued to the following effect :-

“Issue letter to concerned bank restraining
disbursement and alleged amount in the name of N.A.”

The said order has been passed on the application filed by the Respondent-wife in the Execution Proceeding being No.99 of 2012 filed by the Respondent-wife

in respect of the decree passed in Suit No.343 of 2005 awarding maintenance of Rs.2000/- per month to the Respondent Wife. As indicated above, the said order has been passed on an application filed by the Respondent-wife. The said Application is founded on the fact that the Respondent-wife has not been paid the maintenance as granted by the decree. The Petitioner herein has superannuated on 31/7/2014 from Dena Bank where he was working as a peon and his retiral benefits are to the tune of Rs.Eight lacs approximately which are lying in deposit in the branch of the Dena Bank at Karad. With a view to see to it that the Petitioner herein does not withdraw the said benefit that the application in question came to be filed by the Respondent wife.

3 In the above Petition an order came to be passed on 20/11/2014 in which order a reference is made to the affidavit dated 15/11/2014 of the Petitioner wherein the Petitioner has stated that arrears in respect of maintenance are to the tune of Rs.12,000/- and that the same may be deducted from the retiral benefits which are lying in deposit with the said Dena Bank. It has further been stated in the said affidavit that the Petitioner shall pay the monthly maintenance awarded to the Respondent through his monthly pension.

4 Today when the above Petition is heard for admission, the learned counsel for the Petitioner accepted the position that the amount of Rs.Eight

lacs approximately which are the retiral benefits of the Petitioner are lying in deposit with the said Dena Bank and that the Petitioner is agreeable to secure the interest of the Respondent wife in so far as maintenance is concerned. Upon this, the learned counsel appearing for the Respondent Nos.1 and 2 Shri Dalvi points out that the daughter born out of the wedlock between the Petitioner and the Respondent wife has now reached marriageable age and that she would have to be got married in the near future for which the Respondent wife does not have the wherewithal. Though the Petitioner is agreeable to secure the interest of the Respondent wife in so far as maintenance is concerned, since the daughter was also a party to the proceedings wherein the order of which execution is sought is passed, in my view, it would be just and proper to secure the interest of the daughter also more so considering the fact that she has now reached the marriageable age. In my view, the interest of daughter would be served if the following directions are issued :-

- 1] The Petitioner will keep an amount of Rs.Four lacs in a Fixed Deposit in the Dena Bank, Karad Branch for such a period as would be beneficial to the Petitioner and the Respondent wife in so far as the rate of interest is concerned.. The same to be done within two weeks from date.
- 2] Excluding the said amount of Rs.Four lacs the Petitioner would be

entitled to utilized the balance amount remaining out of the retiral benefits, however the same would be after the amount of Rs.Four lacs is kept in fixed deposit.

- 3] In so far as the said amount of Rs.Four lacs and the fixed deposit that would be opened is concerned, the Petitioner would not deal with the said amount and the fixed deposit without the leave of the Executing Court or this Court, if the occasion so arises in future to move this Court.
- 4] In the event the marriage of the Petitioner's daughter is to take place then, the Respondent wife would be entitled to apply either in the Executing Court or in this Court for the amount being granted for the marriage expenses out of the said amount of Rs.Four lacs. Any such application filed would be considered on its own merits.
- 5] The statement of the learned counsel for the Petitioner Shri Patil that the Petitioner would clear the arrears of maintenance of the Respondent wife and would also continue to pay monthly maintenance as directed by the decree in question is accepted.

- 6] With the aforesaid directions, the above Writ Petition is disposed of.
- 7] All concerned parties to act upon an ordinary copy of the instant order duly authenticated by the Court Sheristedar.

[R.M.SAVANT, J]