

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1081 OF 2014

Mr. Tapasije Mishra
: V/S :
Vandana Luthra

.....Petitioner

.....Respondent

* * * * *

Mrs. T.F. Irani, Advocate for the petitioner.

Ms. Mrinalini Deshmukh i/by. Mr. Prakash Mahadik, Advocate for the respondent.

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Coram :- Smt. R.P. SondurBaldota, J.

21st April, 2015.

P.C. :-

1). This petition challenges the order dated 23rd November, 2013 passed on Exhibit-12 and Exhibit-13 by the Family Court awarding maintenance of Rs.1,00,000/- per month for each of the children of the parties. The application at Exhibit-12 is for maintenance by the respondent, wife for herself and two minor children. Exhibit-13 is for travelling and accommodation expenses. The Family Court, by the impugned order, dismissed the application at Exhibit-13 and partly allowed the application at Exhibit-12. It denied maintenance to the respondent, wife on the ground that she was self earning. She was also working as a Manager of City Bank Group since 2009. Further, the

respondent had not disclosed her salary and other income to the Court. As regards the maintenance for the children, the demand made by the respondent wife was of Rs.5,00,000/- per month for each child. The justification therefor was stated at para-7 of the application enumerating the approximate annual expenses for the children. The same reads as follows :-

- “.
- . School fees for both children – Rs.19 lakhs
- . School bus fees for both children – Rs.1.3 lakhs
- . Extra-curricular classes for both children – Rs. 12 lakhs
- . Medical Insurance for both children – Rs.1 lakhs
- . Food, telephone, other transport – Rs.12 lakhs
- . Rent – Rs.38 lakhs
- . Electricity, gas, water costs – Rs.2.2 lakhs
- . Maid costs – Rs.3.6 lakhs”

2). The respondent has alleged that, the petitioner is extremely rich and lives an affluent lifestyle. He was heading the Investment Banking Division of IDBI Bank as its Chief Executive Officer. His additional source of income comprises of investments in stocks, shares, mutual funds and company debentures. As per the respondent, the gross annual income of the petitioner is atleast of Rs.4 to 5 crores including the bonus of Rs.40,00,000/-. He also owns and maintains luxury cars.

3). The petitioner contends that, he is no more in service. He lost his job in September, 2013 on account of criminal proceedings filed against him. As regards the maintenance for the children, he claims that

he formed two trusts to take care of their interest and also made a Will bequeathing all his assets to them on his death. At para-16 of his reply, he refers to “The Tapasije Mishra Family Trust” set up under the trust-deed dated 13th December, 2011 and “Naina-Varun Family Trust” (NAV Family Trust) set up on 14th February, 2012. A firm of corporate trustees, “Warmond Trustees and Executors Private Limited” have been appointed as “First Trustees” who would be the legal custodians of all the documents under which the wealth of the petitioner would be received by the children. The petitioner also states that his share in the property at Flat no.21, Shantikuteer would also be with the Trust for the benefit of the children. The reply, however, does not disclose as to how much amount the children would be receiving as maintenance under the Trust. Therefore, setting up of the Trust or even making a Will, can be no answer to the claim for maintenance of the children.

4). The income-tax returns of the petitioner produced disclose his income till the year 2011-12 as above Rs.4,50,00,000/- per annum. The income disclosed in the income-tax returns for the year 2011-12 was of Rs.4,86,00,000/-. The petitioner used to reside with his family in the house at Marine Drive. There is no dispute as regards the cars owned and maintained by him. On the basis of this material, the Family Court has fixed the amount of maintenance payable by him for the children.

5). Ms. Irani, the learned Advocate appearing for the petitioner submits that, as long as the respondent was in India, he was bearing every expense for the children and the expenses were not as exorbitant as claimed in the application. However, the respondent all of a sudden took away the children to Singapore, which has multiplied the expenses to a large extent. She argues that, the petitioner should not be made to bear the additional expenses.

6). It is very clear that the petitioner is an extremely affluent person. Apart from his income disclosed, it is obvious that there must have been extensive investments made by him generating substantial amount of interest, which can be utilised for the maintenance of the children. Considering the fact, that the respondent also earns substantial amount, the Family Court has rightly divided the burden of maintenance upon the petitioner and the respondent. The parties are directed to equally share the expenses of maintenance. In the facts of the case, in my opinion, grant of maintenance of Rs.1,00,000/- per month for each child is a fair and reasonable maintenance awarded and no interference with the same is called for at the hands of this Court.

7). Ms. Irani, submits that the order as passed originally, awarded maintenance of Rs.1,00,000/- for both the children and that the word “each” has been inserted in the operative part of the order

subsequently on the application made by the respondent behind the back of the petitioner. There can be no substance in the argument for the simple reason that, the point for determination at para-8 of the impugned order and the findings thereon, clearly state that the maintenance awarded for each child was of Rs.1,00,000/-. In the circumstances, there is no merit in the petition filed. The petition is dismissed.

(SMT. R.P. SONDURBALDOTA, J)