

IN THE HIGH COURT OF JUDICATURE AT MUMBAI
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3245 OF 2014

Deepak Gopal Devrukhkar ... Petitioner
Vs.
Vrushali Deepak Devrukhkar ... Respondent

Ms Anjali Maunapalli i/b. Ms Krishnan R. Iyengar for Petitioner.
Ms Anjali Purav for Respondent.

CORAM : R. G. KETKAR, J.
DATE : 2ND MARCH, 2015

P.C. :

Heard Ms Maunapalli, learned Counsel for petitioner and Ms Purav, learned Counsel for respondent at length.

2. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the judgment and order dated 19.11.2013 passed by the learned Joint Civil Judge, Senior Division, Thane below exhibit-16 in Marriage Petition No.198 of 2012. By that order, the learned trial Judge allowed the application made by the respondent No.1 for grant of expenses of the proceedings of marriage petition and for maintenance of her child Simran. The learned trial Judge directed the petitioner husband to pay amount of Rs.15,000/- in lumpsum towards expenses of the marriage proceedings and further directed to pay amount of Rs.10,000/- per month towards maintenance of Simran from the date of the application i.e. 15.03.2013.

3. In support of this Petition, Ms Maunapalli submitted that in the proceedings under the Protection of Women from Domestic Violence Act, 2005 (for short 'Domestic Violence Act'), respondent No.1 has admitted that she is working at Naval Dockyard as a Lower Division

Clerk and that her gross salary is Rs.25,000/-. She however fairly stated that the said cross-examination was conducted on 01.03.2014 that is to say, after passing of the impugned order.

4. Ms Maunapalli further submitted that in the proceedings filed under the Domestic Violence Act, the learned Metropolitan Magistrate by order dated 03.05.2013 directed the petitioner herein to pay monthly maintenance @ Rs.5,000/- per month to the respondent No.1 from the date of filing of the application i.e. 16.02.2013 among other directions. She however fairly stated that the said order was not produced before the learned trial Judge.

5. Ms Purav submits that the petitioner is in arrears of maintenance of Rs.2,30,000/- as on February 2015 and has also not paid Rs.15,000/- in lumpsum towards litigation expenses.

6. Ms Maunapalli, upon taking instructions from the petitioner, seeks permission to withdraw this Petition with liberty to apply for modification of the impugned order in view of the admissions given by the respondent in cross-examination conducted on 01.03.2014 as also for producing order dated 03.05.2013 passed in the proceedings filed under Domestic Violence Act.

7. In view thereof, on the motion made by Ms Maunapalli, on instructions, Petition is allowed to be withdrawn with liberty as prayed for. All the contentions of the parties on merits are expressly kept open. Petition is disposed of accordingly.

(R. G. KETKAR, J.)