

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3416 OF 2015

Mr. Jaiprakash Balani

....Petitioner

: V/S :

Mrs. Sneha Balani

.....Respondent

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Mr. Dipesh U. Siroya, Advocate for the petitioner.

Ms. T.F. Irani, i/by. Helen Miranda, Advocate for the respondent.

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

7th May, 2015.

P.C. :-

1). This petition is directed against the order dated 19th January, 2015 by which the Family Court allowed the application at Exhibit-34 filed by the respondent for striking off the defence of the petitioner because he was in arrears of maintenance to the extent of Rs.2,50,000/- payable to the respondent as on the date of the order. Today, alongwith the arrears of Rs.2,50,000/- the petitioner has paid maintenance upto date and requests for setting aside the impugned order.

2). Ms. Irani, the learned Advocate appearing for the

respondent, points out that the petitioner is in breach of several other orders passed by the Family Court including the order dated 17th October, 2014 directing him to produce certain documents, relating to immovable properties and other assets. She also points out that, subsequent to the order impugned in the petition, there is a further order passed by the Family Court of “No Cross” against the petitioner. As a consequence, there cannot be any cross-examination of the respondent and her witnesses.

3). Mr. Siroya, the learned Advocate appearing for the petitioner states that, he will be filing an application before the Family Court for setting aside that order. Considering the fact that the impugned order is solely based on non-payment of the maintenance, in my opinion, the petitioner can be granted an opportunity of hearing during the trial of the proceedings by setting aside the impugned order. At the same time, the conduct of the petitioner in paying the amount of maintenance only when he is compelled to do so, cannot be ignored. It is also to be noted that, the petitioner has not complied with the directions for production of documents relating to assets. Perusal of the other orders also shows that, the order of interim maintenance passed by the Family Court has been with adverse comments as regards the petitioner's non-co-operative attitude about disclosure of his assets for the purpose

of fixing interim maintenance. Therefore, the respondent must be compensated by substantial costs for the inconvenience caused to her by the petitioner in prosecuting the proceedings filed by her. The petition is therefore disposed off by setting aside the order dated 19th January, 2015 passed by the Family Court on Exhibit-34 in Petition No.A-1009 of 2013. The petitioner shall pay costs quantified at Rs.60,000/- (Rs. Sixty Thousand only) to the respondent on/or before 14th May, 2015. In the event, the petitioner fails to pay the costs to the respondent by 14th May, 2015, the petition shall stand dismissed without any further reference to the Court.

(SMT. R.P. SONDURBALDOTA, J)