

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4688 OF 1999

Mrs. Nisha Nitin Jadhav.] ... Petitioner

Versus

Mr. Nitin Bajrang Jadhav.] ... Respondent

None for Petitioner.

None for Respondent.

CORAM :- M. S. SONAK, J.

DATE :- DECEMBER 16, 2015

P. C. :-

1. Neither the parties nor their Advocates are present. However, considering that this petition is of the year 1999, the same is decided on merits.

2. The challenge in this petition is to the order dated 19/05/1999 made by the Family Court, Mumbai, to the extent it denies the petitioner interim maintenance pending disposal of M.J. Petition No.A-1533/94 and Petition No.C-135/98.

3. This Court, on 31/08/1999, issued rule and made the following order :-

“Rule. The learned Counsel for the respondent is not present. Respondent himself is present in Court. He is not praying for adjournment.

2. The learned Judge of the Family Court, Mumbai, by order dated 19th May, 199 directed the respondent to pay interim maintenance at the rate of Rs.750/- per month per child from the date of the application i.e. 10.7.98. There are two children born to the petitioner and the respondent. However, interim maintenance is denied to the petitioner-wife. Hence, this petition is filed.

3. An application was filed by the petitioner under Section 18 of the Hindu Adoption and Maintenance Act, 1956 (hereafter referred to as 1956 Act) claiming maintenance at the rate of Rs.2,500/- per month for herself. The petitioner also claimed residence. The respondent has provided her residential premises on leave and license basis.

4. Interim maintenance is denied to the petitioner on the ground that the petitioner has failed to make out any case under Section 18 of the 1956 Act. However, it is clear that the contention raised on behalf of the respondent that the petitioner was working in Dramas, T.V. Serials, etc. as a professional person and earning has been negated by the learned Judge.

5. After going through the papers, I find that there is sufficient material on record to show that the respondent

has wilfully neglected to maintain the petitioner. Prima facie, the petitioner has made out a case under Section 18 of the said Act. Further, it was irrelevant how the petitioner maintained herself from February 1991. In fact, it was her case that she was staying with her parents. Taking into consideration the financial position and the employment of the Respondent, I pass the following order :-

- (1) The respondent to pay every month Rs.1500/- from September, 1999 onwards to the petitioner in addition to the interim maintenance awarded for the 2 children during the pendency of this petition. The respondent is also directed to renew the leave and license agreement during the pendency of this petition.*
- (2) Proceedings in Family Court, Mumbai - M.J. Petition No.A-1533/94 and Petition No.C-135/98 to go on.”*

4. At this point of time, it is reasonable to presume that M.J. Petition No.A-1533/94 and Petition No.C-135/98 have already been disposed of. In case the same have not been disposed of, then the Family Court is directed to dispose of the same within a period of six months from the date of production of authenticated copy of this order.

5. For the reasons recorded in the order dated 31/08/1999, the impugned order dated 19/05/1999, to the extent it has denied interim maintenance to the petitioner, or refused to make any arrangements for the residence of the petitioner, is set aside. The direction issued in the order dated 31/08/1999, shall be regarded as final direction in the present petition.

6. Rule is accordingly made absolute to the aforesaid extent. There shall, however, be no order as to costs.

7. Since neither of the parties are appearing, the Registry is directed to transmit the authenticated copy of this order to the Family Court, Mumbai, taking up M.J. Petition No.A-1533/94 and Petition No.C-135/98, within a period of 15 days from today.

8. The Family Court, Mumbai, to act on basis of authenticated copy of this order.

(M. S. SONAK, J.)