

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5012 OF 1999

Sunita Hemant Talwar	..	Petitioner
VS.		
Hemant S. Talwar	..	Respondent

None for Petitioner.
None for Respondent.

CORAM : M. S. SONAK, J.
DATE: 20 NOVEMBER 2015

P.C. :-

1] Neither of the parties nor their Advocates are present. However, since the petition is of the year 1999, it is appropriate that the same is disposed of after taking into consideration the grievance raised in the petition, rather than dismissed for non prosecution.

2] The challenge in this petition is to the order dated 22 January 1999, to the extent, the said order had denied maintenance to the Petitioner. The denial was on the ground that the Petitioner had allegedly suppressed certain facts regarding sale of a shop for an amount of Rs.99,000/-.

3] Rule was issued in this petition on 15 September 1999 and by way of interim relief, the Respondent was directed to pay to the Petitioner maintenance at the rate of Rs.1,000/- per month from the date of interim application no. 1199 of 1995 i.e. from September

1995. Further, the hearing of the Petition No.A-1200/1995 pending before 6th Family Court, Mumbai was directed to be expedited.

4] At this length of time, it is reasonable to presume that the main Petition no. A-1200/1995 stands disposed of. In any case, if the same is not disposed of, the Family Court is hereby directed to dispose of the same as expeditiously as possible and in any case within a period of six months from today.

5] This Court, in its order dated 15 September 1999 had directed the payment of interim maintenance to the Petitioner on the basis of the following reasoning contained in paragraph 3 of the said order:

"I find that interim maintenance is refused to the petitioner on the ground that she has suppressed certain facts regarding the selling of the shop for an amount of Rs.99,000/-. The learned Judge felt that the petitioner must be getting at least Rs.1,000/- per month, since the shop was granted earlier on leave and license basis at the rate of Rs.1,000/-. However, it is clear from the affidavit filed and the circumstances that agreement was entered into by petitioner with one Shebanoo Sarajuddin Mangwa. Initially it was leave and license agreement and she was to pay Rs.1,000/- per month as license fee and was also to pay Rs.20,000/- as deposit. She was to run a tailoring shop. Amount of Rs.20,000/- was paid. Business was started by her. But she could not succeed. She was having no other premises. Hence, she agreed to purchase the same for an amount of Rs.1,05,000/-, Rs.20,000/- was to be adjusted and she paid an additional sum of Rs.5,000/-. The balance amount of Rs.80,000/- was to be paid within 10 months, but she could not pay the amount and continued to be in possession. This shows that the petitioner is not getting any income from the said shop. This was also her stand earlier."

6] At this stage, it would be appropriate if the impugned order dated 22 February 1999 is modified in terms of aforesaid reasoning. Accordingly, the impugned order dated 22 February 1999 to the extent, it denies interim maintenance to the Petitioner is set aside. Instead, it is ordered that the Respondent pays to the Petitioner interim maintenance at the rate of Rs.1,000/- per month from the date of the interim application no. 1199 of 1995 i.e. from September 1995.

7] Rule is made absolute to the aforesaid extent. There shall be no order as to costs.

8] Since neither of the parties nor their Advocates have appeared, the Registry is directed to transmit authenticated copy of this order to the Family Court taking up Petition No. A-1200/1995.

This shall be done as early as possible and in any case within a period of four weeks from today.

9] All concerned to act on basis of authenticated copy of this order.

(M. S. SONAK, J.)