

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10396 OF 2015

Shri Vikrant Chandrashekhar Survase.	]	... Petitioner
Versus		
Ms. Rupali P. Mahalunkar @	]	
Sau. Rupali Vikrant Survase.	]	... Respondent

Mr. U. B. Nighot for Petitioner.

CORAM :- M. S. SONAK, J.
DATE :- OCTOBER 30, 2015

P. C. :-

1. The challenge in this petition is to the orders dated 08/10/2014 and 08/07/2015 made by the Family Court No.2, Pune. The order dated 08/10/2014 has held that the Family Court has jurisdiction to entertain and decide the petition for restitution of conjugal rights. The petitioner has objected to the jurisdiction of the Family Court on the basis of the petitioner's contention that the respondent is not his wife and there is no material on record to establish that any marriage was solemnized between the petitioner and the respondent. The Family Court has rightly held that this is a matter to be decided after issues are framed and parties lead evidence. On the basis of such a plea, the Family Court has rightly dismissed the petitioner's application questioning the jurisdiction of the Family Court. There is no jurisdictional error. The issue of jurisdiction has not been totally closed. If upon the basis of evidence held by the parties,

ultimately, the Family Court comes to the conclusion that the respondent is not the wife of the petitioner, appropriate order will be made at the said stage. There is, however, no ground to interfere with the impugned order at this stage.

2. The second order dated 08/07/2015 merely directs payment of interim maintenance at the rate of Rs.8,000/- per month. The order makes it clear that the same is only an interim measure and upon detailed hearing, such direction will be reviewed. There is no reason to interfere with the impugned order. However, the Family Court is directed to decide the issue of maintenance in terms of its order dated 08/07/2015 as expeditiously as possible and in any case, within a period of three months from the date of production of authenticated copy of this order. Obviously, such determination will be pending the suit and therefore without prejudice to the issue of jurisdiction. The issue of jurisdiction be decided along with all other issues which arise in the suit at the stage of final disposal of the suit.

3. The petitioner to place authenticated copy of this order before the Family Court and the Family Court is requested to act on basis of the same.

4. Petition is disposed of in the aforesaid terms. There shall be no order as to costs.

(M. S. SONAK, J.)