

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1017 OF 2014**

Mahesh Lalchand Mirpuri

..Petitioner

Vs.

Laveena @ Pinky Mahesh Mirpuri & Anr.

..Respondents

Mr. J. D. Khairnar for the Petitioner

**CORAM : R. M. SAVANT, J.
DATE : 6th JANUARY, 2015**

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 17-6-2013 passed by the Learned Civil Judge Senior Division, Malegaon, by which order, the application Exhibit 5 for grant of interim maintenance filed by the Respondents herein came to be allowed and the Petitioner was directed to pay interim maintenance of Rs.9000/- to each of the Respondents.

2 The Suit in question being Special Civil Suit No.89 of 2012 has been filed by the Respondent Nos.1 and 2 invoking Sections 18 and 20 of the Hindu Adoption and Maintenance Act. It is the case of the Respondents that the Petitioner who is the husband of the Respondent No.1 has deserted them. The Respondent No.2 is the son of the Petitioner and the Respondent No.1. It seems that the Petitioner and the Respondent No.1 were divorcées when they married.

3 It is in the said Suit, that the Respondent Nos.1 and 2 who are the Plaintiffs filed an application for interim maintenance. The said application was founded on the fact that the Respondent No.1 is a house wife and she has no independent source of income. The Respondents also pleaded that the expenses of the Respondent No.2 for schooling etc., have also to be met. The application for interim maintenance was opposed to on behalf of the Petitioner contending that it is the Respondent No.1 who has deserted him and that in the proceedings under Sections 18 and 20 of the Hindu Adoption and Maintenance Act, an application for interim maintenance is not maintainable.

4 The Trial Court considered the said application and by overruling the objections raised by the Petitioner allowed the said application Exhibit 5. The Trial Court as indicated above has fixed the interim maintenance of Rs.9000/- for each of the Respondents. The Trial Court has considered the financial status of the Petitioner who is owning a saree shop by name of Ruchika Saree Shoppee at Hyderabad.

5 The Learned Counsel appearing for the Petitioner sought to reiterate the contention raised on behalf of the Petitioner which have been urged in the Trial Court namely that an application for interim maintenance is not maintainable. I am afraid, the said contention cannot be countenanced as the Respondents have filed the Suit in question for claiming maintenance from

the Petitioner and in the said Suit they have applied for interim relief pending the disposal of the Suit. The Learned Counsel appearing for the Petitioner sought to place reliance on the judgment of the Apex Court in the matter of **Neeta Rakesh Jain Vs. Rakesh Jeetmal Jain**¹. The said case concerns Section 24 of the Hindu Marriage Act wherein under an application for maintenance pendent lite is contemplated. The said judgment is sought to be relied upon on the ground that the instant Suit being under Sections 18 and 20 of the Hindu Adoption and Maintenance Act and since the said provisions do not contemplate an interim application, the application for interim maintenance is not maintainable. In my view, the said submission has only to be stated to be rejected as the Plaintiffs who are the Respondent Nos.1 and 2 herein would be entitled to apply for interim relief i.e. the interim maintenance in the Suit in question. The judgment (supra) of the Apex Court does not in any manner aid the case of the Petitioner.

6 In that view of the matter, no case for interference is made out. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]

¹ 2010(12) SCC 242