

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 1476 OF 2015

SANDIP DASHRATH NARWADE
VERSUS
PRIYANKA SANDIP NARWADE

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Advocate for Petitioner : Mr V V Deshmukh h/f M P Bhaskar
Advocate for Respondent : Mr R D Bhalerao

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CORAM : V.K. JADHAV, J.
Dated: February 08, 2016

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PER COURT :-

1. With the consent of the learned counsel for respective parties, heard finally.

2. The petitioner-husband has filed Hindu Marriage Petition No.13 of 2014 against the respondent-wife for restitution of conjugal rights. In the said pending petition, the petitioner-husband has filed an application u/s 24 of Hindu Marriage Act, 1955 for interim maintenance, whereas respondent-wife has also filed an application u/s 24 of the Act for interim maintenance. The Trial court has rejected the application filed by the petitioner-husband, however, partly allowed the application filed by the respondent-wife and thereby directed the petitioner-husband to pay respondent-wife Rs.2,000/- (Rs. Two thousand) p.m. as interim maintenance. Hence, this writ petition.

3. The learned counsel for the petitioner-husband submits that, the petitioner is daily wager and he has no fix income as such. Furthermore, the petitioner has to maintain his parents. Learned counsel submits that, on the other hand, respondent-wife has completed the course of Beauty Parlour and she is earning from the said Beauty Parlour business. Learned counsel submits that the trial court has granted interim maintenance to the respondent-wife though there is no evidence of earning of the petitioner-husband, however, rejected the application filed by the husband-petitioner though there is evidence of earning of the respondent-wife.

4. Learned counsel for respondent-wife submits that, the petitioner-husband is doing labour work and getting Rs.600/- per day. Learned counsel submits that, besides this, there is agricultural land standing in the name of father of the petitioner-husband and he is also getting income out of it. Learned counsel submits that, father of the petitioner-husband is also working in a factory, therefore, father is not depending on the earning of petitioner-husband. Learned counsel submits that, trial court has rightly granted interim maintenance to the respondent-wife @ Rs.2,000/- p.m. from the petitioner-husband.

5. The petitioner-husband has admitted in his application that he is doing the work on daily wages. It is not the case that the petitioner-husband is just incapable of doing anything and, therefore, he is without any income. So far as earning of the respondent-wife is concerned, the Trial Court has rightly observed that, there is no evidence of her earning by doing the beauty parlour business, however, there is also no evidence to the effect that the petitioner-husband is earning Rs.600/- per day by doing labour work in the industry. In view of this, it appears that the trial court has granted maintenance to the respondent-wife though may be at interim stage, at some higher rate. Thus, with certain modifications in the order, this writ petition can be disposed of. Hence, following order.

ORDER

1. Writ Petition is hereby partly allowed.
2. The order passed by the learned Civil Judge S.D.Sangamner, dated 24.11.2014 below Exh.11 in HMP No.13 of 2014 is modified to the extent of quantum of interim maintenance and same is now quantified as Rs.1,500/- p.m. Rest of the order stands confirmed.

3. The order dated 24.11.2014 passed below Exh.11 in HMP No.13/2014 stands confirmed.

4. Writ Petition accordingly disposed of. No costs.

(V.K. JADHAV, J.)

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aaa/-