

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

CRIMINAL WRIT PETITION NO. 103 OF 2014

Rajendra s/o Tukaram Ahirrao,
Age: 43 years, Occu: Labour,
R/o. 9, Shantiniketan Society,
Mahatma Nagar, Nashik-7

...PETITIONER

versus

1. Sau. Jaishree Rajendra Ahirrao,
Age: 32 years, Occu: Legal Practitioner
2. Aaditya @ Sujal Rajendra Ahirrao,
Age: 9 years, minor through
natural guardian mother i.e.
respondent No. 1,
Both R/o. Mohadi,
Tq. & Dist. Dhule

3 The State of Maharashtra

...RESPONDENTS

Mr S. K. Shinde, Advocate for petitioner;
Mr P. R. Katneshwarkar, Advocate for respondent No. 1;
Mr R. V. Dasalkar, Addl. Public Prosecutor for respondent No. 3

CORAM : N.W. SAMBRE, J

DATE : 13th April, 2016

ORAL ORDER :

Having heard the parties at length, it is not in dispute that the decree passed in Regular Civil Suit No.150 of 2007, by Extra Joint Civil Judge Senior Division, Nashik on 22nd June, 2010, declaring that

respondent no.1 Jaishree is the wife of Pramod Walmik Patil, was set aside in an appeal and is subject-matter of challenge in Second Appeal No.667 of 2011.

2. Learned Court below, in the above background, has awarded maintenance of Rs.1,500/- each to respondents from 9th January, 2006 till realization.

3. The aforesaid order is questioned on the ground that since the Second Appeal is continuation of the suit, the issue as regards subsistence of marriage between respondent no.1 Jaishree and Pramod Walmik Patil is still *sub judice*. In my opinion, the judgment and decree in favour of the petitioner, passed on 22nd June, 2010, in Regular Civil Suit No.150 of 2007 is already set aside and the appeal at the behest of present petitioner, being Second Appeal No.667 of 2011 is pending, it is the duty of the petitioner to pay maintenance.

4. Apart from above, taking into consideration the amount of maintenance of Rs.1,500/- each and the fact that the petitioner has independent source of income as is reflected from the observations made in the order passed by the learned Magistrate, it will be appropriate in my opinion, to dismiss the present petition being devoid of any legal ground and accordingly it is dismissed.

5. A request is made that respondent no.1 – wife be permitted to withdraw the amount deposited in this Court. Permission granted.

(N.W. SAMBRE, J.)

amj