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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5328 OF 2015

Janvi Parasram Mehta & Another

PETITIONERS

VERSUS

Parasram Narayan Mehta & others

RESPONDENTS

.....

Mr. A. R. Borulkar, Advocate for the petitioners

Mr. A. S. Deshmukh, Advocate for respondents No.1 and 2

.....

WITH

WRIT PETITION NO.3775 OF 2015

Parasram Narayan Mehta & Another

PETITIONERS

VERSUS

Janvi Parasram Mehta & others

RESPONDENTS

.....

Mr. A. S. Deshmukh, Advocate for the petitioners

Mr. A. R. Borulkar, Advocate for respondent No.2

.....

[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 15th MARCH, 2016

ORDER :

1. Both these writ petitions have been moved by respective parties claiming to be aggrieved by order dated 11th February, 2015, upon an application Exhibit-23, for maintenance during pendency of regular civil suit No.41 of 2012 filed by the

petitioners in writ petition No.5328 of 2015 for partition and separate possession of the properties referred to in the plaint.

2. The suit is being resisted by defendants - respondents in writ petition No.5328 of 2015. Respondents No.1 and 2 in writ petition No.5328 of 2015 are petitioners in writ petition No.3775 of 2015 which is filed assailing the very order as is impugned in writ petition No.5328 of 2015.

3. After hearing learned advocates for the parties, it transpires that the suit has been instituted way back in the year 2010, which has been re-numbered on transfer as regular civil suit No.41 of 2012. During pendency of the suit, an application had been filed praying for grant of maintenance @ Rs.5000/- to plaintiff-petitioner No.1 - daughter of defendant No.1 and grand daughter of defendant No.2. Said application has been granted partially awarding maintenance @ Rs.3000/- per month to plaintiff-petitioner No.1.

4. Mr. Borulkar, learned advocate appearing for petitioners in writ petition No.5328 of 2015 strenuously urges to enhance the amount of maintenance contending that the defendants have various sources of income and about 20,000 to 25,000 rupees per month are derived from rent, apart from the income derived

from joint family businesses and it is liability of the defendants to maintain the plaintiffs. According to learned advocate with inflation, the expenditure required to be incurred on plaintiff-petitioner No.1 has been going up and even Rs.5000/- would be inadequate. As such, it is being requested that the petition be allowed and amount of maintenance be enhanced to Rs.5000/- per month by setting aside the impugned order.

5. On the other hand, Mr. A. S. Deshmukh, learned advocate appearing for respondents-defendants No.1 and 2, father and grand father of plaintiff No.1, contends that the claims about income of the defendants are inflated. The petitioners - plaintiffs are not able to show as to how income is stated to Rs.20,000/- to Rs.25,000/- per month being derived from rent. No specific rent amounts have been referred to or for that matter even the tenants at all, who are really paying rent. It is further submitted that only vague reference to joint family businesses is made without any specific information. Nor any particulars about the income being fetched by such businesses have been given.

6. Mr. Deshmukh, further contends that as a matter of fact, it is the grand father, who had volunteered to offer maintenance to plaintiff-petitioner No.1 having regard to the relationship,

however, this would not mean that exorbitant maintenance amount be claimed.

7. After having heard learned advocates for the parties and having regard to that the suit is of 2010, re-numbered in 2012, there being no dispute about that the pleadings have already been completed, I deem it appropriate that it would be expedient, instead of getting entangled in the interlocutory application, the *lis* between the parties is taken up for expeditious disposal by keeping the position as obtaining today.

8. In the circumstances, the trial court may proceed with the suit in the right earnest and dispose the same of within a period of six months from the date of receipt of writ of this order.

9. In the meanwhile, the position with regard to maintenance pursuant to the impugned order passed by the trial court be maintained. Learned advocate for defendants No.1 and 2 fairly states that the defendants would endeavour to deposit the amount of arrears of maintenance. It is hoped that the arrears of maintenance would be deposited as early as possible. Defendants No.1 and 2 would keep on paying monthly maintenance amount regularly.

10. Parties are expected to co-operate for the expeditious disposal of the suit.

11. The writ petition is disposed of with aforesaid observations, which shall not influence the decision making on merits in the suit.

[SUNIL P. DESHMUKH, J.]