

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11214 OF 2015

SUNIL S/O MANIKRAO TUPE
VERSUS
SNEHA W/O SUNIL TUPE

.....
Advocate for the petitioner : Mr. R. G. Joshi
Advocate for respondent-sole : Mr. M. S. Sonwane
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CORAM : V. K. JADHAV, J.

Date of reservation of : 21.01.2016

Order

Date of pronouncement : 28.01.2016
of Order

ORDER:-

1. By consent, heard finally.
2. By this petition, the petitioner/original applicant has challenged the order dated 18.08.2015 passed below Exh. 18 by the I/c Principal Judge, Family Court, Aurangabad, granting interim maintenance as provided under Section 24 of the Hindu Marriage Act, 1955.
3. Petitioner husband has filed a petition bearing No. A-339 of 2014 before Family Court, Aurangabad for desolation of marriage on the ground of cruelty under Section 13(1)(ia) of the Hindu Marriage Act, 1955. During pendency of the said petition, respondent-wife filed an application under Section 24 of the Act for maintenance *pendente lite*. Learned I/c Principal Judge, Family Court, Aurangabad, by the impugned order passed below

Exh. 18, directed petitioner-husband to pay Rs.10,000/- p.m. to respondent-wife towards her interim maintenance from the date of order till the hearing and final disposal of the main petition. So far as arrears of maintenance is concerned, it is further directed that the petitioner-husband shall pay a lumpsum amount of Rs.50,000/- within three months from the date of order to respondent-wife.

4. Learned counsel for the petitioner submits that learned Judge of the family court has granted order of interim maintenance without hearing the petitioner. Learned counsel further submits that learned Judge of the family court has mechanically passed the impugned order without following the basic principles of natural justice. Learned counsel further submits that even the learned Judge of the family court has not at all considered the say filed by petitioner-husband on the application for interim maintenance. Consequently, learned Judge of the family court has not considered that the parents of petitioner are solely dependent on him and the petitioner is also financially supporting his younger brother for his education. Learned counsel further submits that though the petitioner has placed on record his monthly earnings and expenses, the same was not considered by learned Judge of the family court. On the other hand, learned Judge of the family court has held that the deductions shown in the salary slip are not standard deductions. Learned counsel further submits that petitioner is not in a position to pay Rs.10,000/- p.m. as interim maintenance to respondent-wife.

5. Learned counsel for respondent-wife submits that the order impugned is proper, correct and legal and calls for no interference. Learned counsel submits that monthly salary of petitioner is around 61,380/-. Though the take home salary is less, there appears to be loans taken by the petitioner as Computer Advance, Credit Society-1, Credit Society-2, etc. Learned counsel submits that family court has rightly held that the same cannot be termed as standard deductions. Learned counsel submits that family court has also considered the agricultural land in the name of father of the petitioner. There is no evidence that parents of the petitioner-husband are dependent on petitioner and that he is incurring educational expenses of his younger brother. Learned counsel further submits that family court has rightly granted maintenance considering the standard of living of both the parties, with due regard to the earnings of petitioner-husband. Respondent-wife has no independent source of income and she is unable to maintain herself. Learned counsel thus, submits that there is no substance in the writ petition and the same is liable to be dismissed.

6. It appears from the annexures to the petition and the observations made by learned I/c Principal Judge of the family court that the respondent-wife has no source of income and that the petitioner-husband has not taken any responsibility for her maintenance. Admittedly, petitioner-husband is working as Substation In-charge for M.S.E.B. at Waluj. He is drawing a definite salary. As per the salary slips for January 2015 to March 2015 produced on record, gross salary of the petitioner-

husband for the month of March 2015 is Rs.61,308/-. It appears that the net take home salary is only Rs.21,691/-. However, agricultural lands are standing in the name of father of the petitioner and crops like sugarcane, cotton etc. are shown to have been taken. It appears from the documents on record that the petitioner has sufficient income to pay towards maintenance of respondent-wife. Learned I/c Principal Judge of the family court, considering the income, the responsibility towards other family members and the personal expenses of the petitioner, arrived at a fair and just quantum of maintenance. The impugned order is proper, correct and legal and calls for no interference. Writ Petition is devoid of any merits and the same is hereby dismissed. No costs.

(V. K. JADHAV, J.)

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