

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 931 OF 2014**

Chandan Madhukar Pawar

..Petitioner

Vs.

Smitha Chandan Pawar

..Respondent

Mr. S. S. Raut for the Petitioner

CORAM : R. M. SAVANT, J.

DATE : 28th APRIL, 2016

P.C.

1 The Writ Jurisdiction of this court is invoked against the order dated 16-1-2013 passed by the Learned Judge of the Family court No.5, Pune, by which order, the application Exhibit 18 for interim maintenance filed by the Respondent – wife for herself and her minor son Sarvesh, came to be partly allowed to the extent of granting an amount of Rs.7500/- to the Respondent – wife and Rs.7500/- for the minor son Sarvesh as interim maintenance.

2 The Petitioner and the Respondent are involved in a Divorce Petition filed by the Respondent-wife under Section 13(1)(i-a) of the Hindu Marriage Act. During the pendency of the said proceedings that the Respondent – wife filed the instant application Exhibit -18 for the grant of interim maintenance for the sum of Rs.60,000/- per month for herself and her son Sarvesh. The said claim was founded on the fact that the Petitioner herein

who was the Respondent in the said proceedings owns Hotel Sinhgad at Village Donjae. He also owns Hotel Sinhgad Executive at Vadgaon Khurd. He also owns 2 shops in building Anuradha Sankul at Vadgaon Khurd and that his monthly income is between 1 to 1.5 Lacs.

3 The Petitioner herein who was the Respondent in the said proceeding opposes the said application and it was his case that he is working as a temporary office boy with one NSG Information Technology Park, Aundh and is being paid Rs.5,500/- as salary. It was his case that the Respondent -wife owns a number of properties from which she derives income and that her income is in the vicinity of Rs.1 Lac per month.

4 In so far as the Respondent-wife is concerned, she produced affidavits in the form of entries in the property card in respect of Hotel Sinhgad and Hotel Sinhgad Executive. In so far as the Petitioner is concerned, he merely produced some 7/12 extracts wherein the name of the Respondent -wife is appearing as the co-owner. The Petitioner also produced a certificate issued by one Kedar Gaikwad that the Petitioner is employed as a office boy and is residing in servants quarters.

5 The Trial Court i.e. the Learned Judge No.5 Family Court No.5 considered the said material on record. In so far as the certificate issued by

Kedar Gaikwad is concerned, the said certificate was disbelieved by the Learned Judge on the ground that Kedar Gaikwad is a relative of the Petitioner and that it was impossible to believe that a person whose father owns two hotels is working as a peon with one of the private companies and drawing Rs.5,500/- as salary. The Trial Court observed that in the absence of any evidence produced as regards the income of the Respondent – wife, it is not possible to accept the case of the Petitioner that the income of the Respondent – wife was in the vicinity of Rs.1 Lac per month. The Trial Court having regard to the circumstances as above deemed it appropriate to fix the interim maintenance @ Rs.7500/- p.m. each for the Respondent – wife and son Sarvesh.

6 In my view, having regard to the material on record, the fixation of interim maintenance of Rs.7500/- each for the Respondent – wife and son Sarvesh, cannot be taken exception to. No case for interference in the Writ Jurisdiction of this court is made out, the Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]