

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2722 OF 2015

Shri Kiran Anandrao Patil	..	Petitioner
VS.		
Smt. Nileshta Kiran Patil	..	Respondent

Ms Vrushali Kamble for Petitioner.
Mr. Anand Patil for Respondent.

CORAM : M. S. SONAK, J.
DATE : 19 AUGUST 2016

P.C :

1] The challenge in this petition is to the order dated 23 December 2014 by which the family court has directed the petitioner to pay Rs.5,000/- per month by way of interim maintenance to the respondent pending the final disposal of petition no. 41 of 2012 instituted under section 24 of the Hindu Marriage Act 1956.

2] Learned counsel for the petitioner has submitted that there is already an order made under the provisions of the Protection of Women from Domestic Violence Act 2005 in terms of which, the petitioner is paying maintenance of Rs.5,000/- to the respondent wife. She submits that in terms of earlier interim orders also, the petitioner is paying maintenance of Rs.6,000/-. She also submits that the petitioner is earning hardly Rs.42,000/- per month and has to bear the financial responsibility of his mother and sister. Learned

counsel for the petitioner also handed in a bank statement, which she states was obtained by the petitioner at a later date to indicate that the respondent is working and drawing salary of Rs.11,000/- per month. For all these reasons, learned counsel for the petitioner submitted that the impugned order is liable to be interfered with.

3] Learned counsel for the respondent has defended the impugned order by pointing out that as of date, the respondent wife is in receipt of maintenance of Rs.10,000/-. Learned counsel pointed out that the respondent has two minor children and substantial expenditure is required to maintain them and to provide for their education. For all these reasons, learned counsel submitted that the present petition may be dismissed.

4] Having heard the learned counsel for the parties and perused the record, I am satisfied that there is no case made out to interfere with the impugned order by which only interim maintenance has been directed. The bank statement, which is now produced, can always be taken into consideration by the family court at the stage of determining the final maintenance amount. Even if it is assumed that the petitioner is earning Rs.42,000/- per month, interim maintenance which is awarded, is by no means excessive, considering the circumstance that the respondent has in her

custody two minor children whom she is required to provide for. At the stage of determining interim maintenance, the family court has applied the correct parameters and there is no jurisdictional error in the making of the impugned order.

5] Accordingly, this petition is dismissed. However, it is directed that at the stage of final determination, the family court need not be influenced by any observations in the impugned order or for that matter the observations in the present order. The final determination is to be made on the basis of the evidence / material produced on record by both the parties.

6] This petition is therefore dismissed. There shall be no order as to costs.

(M. S. SONAK, J.)