

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.8491 OF 2015

Mr. Tapeshe s/o Shri. Chatrapal Singh Tyagi Petitioner

Vs.

The State of Maharashtra & Anr. Respondents

Ms. Sneha Singh, Advocate for the Petitioner.

Mr. Sharad G. Korgaonkar, Advocate for Respondent no. 2.

Coram : **Smt. R.P. SondurBaldota, J.**

Date : 3rd August, 2016

P.C.

1 This petition challenges the order dtd. 1st July, 2015 by the Family Court, Bandra, Mumbai directing the petitioner to pay maintenance in the sum of Rs.5,000/- to the minor son from the date of the application i.e. 20th November, 2013 till disposal of the petition. The petitioner has so far paid only Rs.25,000/- towards maintenance. Mr. Korgaonkar, the learned advocate for respondent no.2 states that the petitioner had issued a cheque of Rs.75,000/- towards arrears of maintenance. However, that cheque was dishonoured when presented for payment. Respondent no.2 has filed two applications for execution of the impugned order.

2 Ms. Singh, the learned advocate for the petitioner submits that the petitioner is completely bankrupt today and he has been living at the mercy of his own father who is not only maintaining him but also giving him financial assistance to make payment under the impugned order. Perusal of the petition shows that there is no such claim made anywhere therein. As against this claim, the documents produced by respondent no.2 shows that the petitioner had as late as 23rd February, 2015 made payment of Rs.25,000/- by his own debit card. There are also other medical expenses of substantial amount incurred by him. Respondent no.2 alleges that in order to defeat the claim of maintenance, the petitioner has gifted the residential flat in Montana Co-operative Society at Andheri (West) to his sister and has thereafter requested for society's N.O.C. for transfer of the flat. There is no denial of this allegation.

3 The Family Court has awarded Rs.5,000/- per month towards maintenance on the basis of the earning of Rs.25,000/- per month by the petitioner. Since respondent no.2 is employed, no maintenance is awarded to her. Considering the above facts of the case, I find no infirmity whatsoever in the impugned order. Hence, the petition is dismissed.

(Smt. R.P. SondurBaldota, J.)