

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

***WRIT PETITION NO. 8663 OF 2015
WITH
CIVIL APPLICATION NO. 538 OF 2016
IN
WRIT PETITION NO. 8663 OF 2015***

Mr. Ashok Mangilal Jain

... Petitioner

Vs

Mrs. Nikita Ashok Jain

... Respondent

...

Mr. Shah Kayval for the petitioner.

Mr. Sandeep R. Karnik for the Respondent.

CORAM : M. S. SONAK, J.

DATE :20 AUGUST, 2016

P.C. :

1. Rule.

2. Rule is made returnable forthwith, with the consent of and at the request of the learned counsel for the parties.

3. The challenge in this petition is to the order dated 8th July 2015, by which the Family Court No. VI, Bandra, Bombay, has directed the petitioner to pay to the Respondent interim maintenance of Rs. 25,000/- per month with effect from 15th February 2014 till disposal of the application under Section 18 of the Hindu Adoptions and Maintenance Act, 1956 (the said Act).

4. The learned counsel for the petitioner has submitted that the award of interim maintenance at the rate of Rs.25,000/- is quite excessive, particularly because the Family Court has failed to take into consideration that the petitioner, apart from having to maintain the respondent-wife, is also required to maintain his two daughters from the previous marriage and his parents, who are senior citizens.

5. On the other hand, the learned counsel for the respondent-wife has submitted that the petitioner has an income of Rs.10 to 12 Crores per annum. The petitioner has several movable and immovable properties, investments and if considered from this context, the award of interim maintenance is perfectly justified.

6. At this stage, it must be noted that the impugned order relates only to payment of interim maintenance. The main petition being Petition No.C-85 of 2013 had been instituted in the year 2013. By now, the same could have been disposed of. In such circumstances, it would be in the interests of justice, if the Family Court is directed to dispose of the main Petition No. C-85 of 2013, as expeditiously as possible, and in any case within a period of six months from today. In disposing of the main petition, the Family Court ought not to be influenced by the observations

made in the impugned order dated 8th July 2015 or for that matter the observation in the present order. The Family Court is directed to decide the main petition uninfluenced by this factor and on the basis of the material and evidence which the parties may produce before it.

7. In pursuance of orders made by this Court, the petitioner has deposited sum of Rs.2,50,000/- before the Family Court unconditionally. The Family Court may therefore, permit the respondent-wife to withdraw such amount unconditionally.

8. Although, it is not necessary to delve into great details, at this stage, or evaluate the submission made by the learned counsel for the parties in great details, at this stage, in my judgment, the interests of justice would be served if the petitioner is directed to pay a further amount of Rs.2,00,000/- to the respondent-wife within a period of eight weeks from today. The petitioner is accordingly directed to deposit before the Family Court an amount of Rs.2,00,000/- within a period of eight weeks from today. Such amount, if deposited, within eight weeks may be withdrawn by the Respondent unconditionally. The Family Court to permit such withdrawal.

9. In case the amount of Rs.2,00,000/- is deposited within a

period of eight weeks from today, the petitioner, in modification of directions contained in the impugned order dated 8th July 2015, shall pay interim maintenance at the rate of Rs.15,000/- per month till disposal of Petition No. C-85/2013. It is made clear that this order is not intended to suggest that any considerable merit has been found in the submission made for and on behalf of the petitioner. It is made clear that this Court has not adverted to the merits and demerits of the submissions put-forth by either of the parties. The purpose of this order is only to evolve some interim arrangement until the main petition is disposed of expeditiously. However, in case the petitioner fails to deposit the amount of Rs.2,00,000/- within a period of eight weeks from today, then, this petition shall deemed to have been dismissed and the impugned order dated 8th July 2015 shall revive.

10. If the petitioner deposits the aforesaid amount of Rs.2,00,000/- then the petitioner, in all, would have deposited total amount of Rs.4,50,000/-. This will constitute sufficient compliance with the impugned order, as now modified. From 1st August 2016 onwards however, the petitioner is directed to take interim maintenance at the rate of Rs.15,000/- per month.

11. Both the parties assure this Court that they shall co-operate

with the Family Court in the matter of expeditious disposal of Petition No. C-85/2013.

12. The learned counsel for the petitioner makes a statement that the petitioner shall not seek any extension in the matter of deposit of the amount of Rs.2,00,000/- within a period of eight weeks. In any case, it is already made clear that if the amount of Rs.2,00,000/- is not deposited within eight weeks, the present petition shall be deemed to have been dismissed without any further reference to this Court.

13. Rule is partly made absolute to the aforesaid extent. There shall be no order as to costs.

14. The Civil Application (st) No. 538/2016 stands substantially granted, in view of the order already made and the same is therefore disposed of.

15. All concerned to act on the basis of the authenticated copy of this order.

(M. S. SONAK, J.)