

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10954 OF 2015

Hemant N. Rane	.. Petitioner
vs.	
Madhuri H. Rane	.. Respondent

Mr. Mahesh Mishra i/b Mr. Ravi Thankian for the Petitioner.
Ms Netra Kargutkar for the Respondent.

CORAM : M. S. SONAK, J.
DATE : 15 JANUARY 2016.

P.C. :-

1] By order dated 18 December 2015, the Petitioner was directed to pay an amount of Rs.50,000/- on or before 12 January 2016 towards arrears of maintenance in terms of the order impugned in this petition. The said direction has not been complied with by the Petitioner.

2] The challenge in this petition is to the judgment and order dated 1 August 2015 made by the Family Court, Mumbai directing the Petitioner to pay maintenance of Rs.2000/- per month to his wife and Rs.3000/- per month to his minor son Aryan as and by way of interim maintenance from the date of application, i.e., 10 November 2014, till disposal of main petition.

3] Mr. Mahesh Mishra, learned counsel for the Petitioner, has submitted that it is the Respondent who deserted the Petitioner without any reasonable cause and therefore, the Respondent is disentitled to any maintenance. The Petitioner had disclosed his willingness to the Respondent returning to the matrimonial home and resuming cohabitation. Without prejudice, Mr. Mishra has submitted that the Petitioner's take home salary is hardly Rs.5000/- and therefore, the award of interim maintenance at the rate of Rs.5000/- per month to the wife and minor son is not justified. On these grounds, Mr. Mishra has submitted that the impugned order is liable to be set aside.

4] At the outset, it is to be noted that the impugned order was made on 1 August 2015 and the petition was instituted on 3 September 2015. Despite the circumstance that no ad-interim relief was granted in the matter, the Petitioner, on his own, has refused to comply with the directions contained in the impugned order. Thereafter, by order dated 18 December 2015, the Petitioner was required to clear at least a portion of arrears, which, the Petitioner has failed. This is despite, the Petitioner being a Government employee serving in the PWD Department at the Mantralaya.

However, the Petitioner, who is present in the Court, has states that he has been transferred to the Home Department.

5] There is no material on record to establish that the Respondent has indeed deserted the Petitioner or in any case, is living away from the Petitioner, since the year 2006, without any justifiable cause.

6] The salary certificate produced by the Petitioner makes reference to deduction of over Rs.12000/- per month towards certain loans, which the Petitioner is stated to have obtained the loan. The statement made by the learned counsel for the Petitioner that such loans were necessitated on account of ill-health of his parents neither inspires confidence nor is backed by any proper material on record.

7] In the aforesaid circumstances, it cannot be said that there is any jurisdictional error in making of the impugned order. At the stage of making of impugned order, the Family Court has applied correct tests and adverted to the relevant parameters. There is no case made out to interfere with the impugned order, particularly,

considering that the interim maintenance awarded is only Rs.2000/- to the wife and Rs.3000/- to the minor son.

8] Accordingly, this petition is dismissed. There shall, however, be no order as to costs.

9] The Family Court is directed to dispose of Petition No. A-152 of 2014 as expeditiously as possible and in any case within a period of six months from the date of production of authenticated copy of this order.

10] The parties to produce authenticated copy of this order on 22 January 2016, which is even otherwise the date fixed by the Family Court.

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

(M. S. SONAK, J.)