

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1025 OF 2014

Anil Gopal Bhatia .. Petitioner
vs.
Sau. Kashish A. Bhatia
@ Ms. Neelam R. Balchandani and anr. .. Respondents

Mr. Bhavesh Thakur for the Petitioner.
Mr. Suhas S. Deokar for Respondent No.1.

CORAM : M. S. SONAK, J.
DATE : 5 FEBRUARY 2016.

P.C. :-

1] The challenge in this petition is to the order dated 31 August 2013 made by the Family Court, Thane directing the Petitioner to pay interim maintenance at the rate of Rs.3000/- per month to the Petitioner's minor daughter with effect from the date of application, i.e., 14 June 2011 till the final disposal of main petition.

2] Mr. Thakur, learned counsel for the Petitioner, has submitted that at the relevant time, the Petitioner's net income was between Rs.55000/- to Rs.60,000/-. The Petitioner is required to take care of his old and ailing parents. The Petitioner's mother is afflicted with cancer and considerable expenses are required on account of her health. The learned counsel submitted that already there is an order made by the Court in the proceedings under Domestic Violence Act

for payment of maintenance at the rate of Rs.6000/- per month to the minor daughter. There are some arrears, but the Petitioner assures that same will be cleared within reasonable time. The learned counsel points out that the Petitioner also pays Rs.7000/- towards rent of the premises, which are occupied by the Respondent and the minor daughter. The learned counsel submits that considering of these aspects, award of Rs.3000/- per month by way of interim maintenance is quite excessive and deserves to be interfered with.

3] Having heard the learned counsel for the parties and perused material on record, there is no case made out to interfere with the impugned order. From the salary slips, produced on record, it does appear that at the relevant time, the Petitioner was earning net salary in the range of Rs.55,000/- to Rs.60,000/-. The salary in fact, was considerably higher, but there were deduction towards certain loans, Provident Fund and such other matters. Nevertheless, the salary was within the range of Rs.55,000/- to Rs.60,000/-. As of today, the net salary is in the range of approximately Rs.70,000/-.

4] There is *prima-facie* material to indicate that the Respondent-wife is required to spend an amount of Rs. 24,000/- towards rent of the premises. No doubt, the Respondent-wife is also earning approximately Rs.45,000/- per month. The minor daughter, is by now, 11 years of age. At the stage, when the impugned order was made she was 8 years of age. In making the impugned order, the Family Court was conscious about the maintenance of Rs.6000/- per month awarded by the Court taking up the proceedings under the Domestic Violence Act. The total interim maintenance of Rs.9000/- per month, in the facts and circumstances, cannot be said to be either excessive or disproportionate to the needs of the minor daughter. There is no jurisdictional error in making of the impugned order.

5] The learned counsel for the Petitioner relies upon the decision of this Court in case of **Mr. Amit Satish Shah vs. Mrs. Archana Amit Shah & anr.**¹. Therein, it is held that it is the responsibility of both the parents to provide maintenance to their minor children. In making the impugned order, the learned Family Court has been conscious of this principle. If the facts and circumstances of the present case are borne-in-mind, it is quite clear that needs of the

1 Civil Writ Petition No. 6852 of 2013 decide don 14 October 2014

minor daughter are considerably higher and the mother with whom the minor daughter resides is obviously making her contribution to the upkeep and maintenance of the minor daughter. This precisely, in these circumstances, the Petitioner has required to contribute only Rs.9,000/- per month towards maintenance.

6] In view of above, petition is dismissed. There shall however, be no order as to costs.

7] The proceedings in Petition No. A-167 of 2011 are directed to be expedited.

8] It is further clarified that the observations in the impugned order as also the observations in this order, are only *prima-facie* and same need not be taken into consideration by the Family Court while disposing of the petition finally.

(M. S. SONAK, J.)