

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

WRIT PETITION NO. 4553 OF 2016

Sandeep Kaluram Vipat-Bhosale	... Petitioner
V/s.	
Mrs. Seema Sandeep Vipat-Bhosale	... Respondent

Mr. Sanjiv A. Sawant for petitioner.
None for respondent.

CORAM : M.S. SONAK, J.
DATE : 16 JUNE, 2016.

PC. :

1. Heard Mr. Sawant learned counsel for the petitioner.
2. The challenge in this Petition is to the judgment and order dated 03.10.2015, by which, the Family Court has awarded maintenance of Rs.10,000/- to the respondent-wife.
3. The learned counsel for the petitioner has submitted that the respondent-wife has not produced any material with regard to the income of the petitioner. The suggestions put to the Petitioner were duly denied by the petitioner. It is the case of the petitioner that he is doing job of auto-rickshaw driver and earning around Rs.5,000/- to Rs.6,000/- per month. The learned counsel for the petitioner has submitted that the impugned order is based on surmises and conjectures and, therefore, the same deserves to be interfered with.

4. Upon due consideration of the aforesaid submissions and upon perusing the record and impugned judgment and order, in my judgment, there is no need to interfere with the impugned order in the exercise of jurisdiction under Article 227 of the Constitution of India. There is neither any jurisdictional error nor any perversity in the record of finding of facts. In the facts and circumstances of the present case, it cannot be said that the impugned order is based upon mere surmises and conjecture. Considering the non-co-operative attitude of the petitioner some amount of guess work was inevitable, however, it cannot be said that the inferences drawn, suffer from perversity or that the same are merely surmises and the conjectures.

5. The record indicates that the petitioner is in occupation of certain commercial premises which were earlier operated as S.T.D. Booth. In the course of cross-examination he has admitted that he is the owner of a bungalow at Chandan Nagar. Considering the ownership of these two properties themselves, it cannot be believed that the petitioner is earning only Rs.5,000/- to Rs.6,000/- per month. It is the case of respondent-wife that the petitioner not only operates auto-rickshaw, but further he is the agent of the Bajaj Auto-rickshaw and sells auto-rickshaw meters within the premises which had earlier operated as S.T.D. Booth. Besides, there is record that petitioner's father had retired from the Ammunition factory and his mother must, therefore, be receiving pension. The learned trial Court has rightly inferred that the mother is not dependent upon the petitioner. Besides, there is reference of agricultural properties and income therefrom. Although, the petitioner has denied the suggestions in this regard, the petitioner has not

produced any credible material to indicate his precise income. In these circumstances, the impugned judgment and order cannot be interfered within the exercise of jurisdiction under Article 227 of the Constitution of India.

6. For the aforesaid reasons, this Petition is dismissed. There shall, however, be no order as to costs.

(M.S. SONAK, J.)