

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 585 OF 2016

Bhaskar Mohan Murari

.. Petitioner

vs.

Mrs. Vandana Bhaskar Murari

.. Respondent

Mr. Siddheshwar B. Kalel i/b. Pol Legal Juris for the Petitioner.

CORAM : M.S. SONAK, J.

DATE : 8 FEBRUARY, 2016.

P.C. :

1 On 14 January 2016, at the behest of the learned counsel for the petitioner, this matter was produced. This Court, made the following order :-

“1 Not on board. Production of papers is permitted at 4.30 p.m.

2 Stand over to 5 February 2016. To be listed on supplementary board. It is made clear that there is no interim order granted by this Court and, therefore, the Petitioner cannot avoid compliance with the order for payment of maintenance on the mere ground of pendency of this petition. The Petitioner is directed to clear all arrears on or before the returnable date.”

2 Today when the matter is called out, the learned counsel for the petitioner, has no instructions as to whether the petitioner has cleared the arrears of maintenance. From the conduct of the petitioner, to which reference is made in the order

impugned in this Petition, it is very unlikely that the petitioner has cleared the arrears of maintenance. Nevertheless, the learned counsel for the petitioner, was heard on merits.

3 The learned counsel for the petitioner has submitted that the respondent is a qualified doctor who is capable of earning for her own maintenance. He submitted that in fact, the respondent is earning sufficient amount but, is issuing prescriptions on the letterhead of some other doctor. He pointed out that the respondent has suppressed the fact that she is earning sufficient amount. He submitted that this Court in the earlier round of litigation, had granted liberty to the petitioner to apply to the trial Court for modification or variation in the amount of interim maintenance. For all these reasons, he submitted that the impugned order by which the trial Court has refused to give the interim maintenance amount is liable to be interfered with.

4 Upon consideration of the contentions made by the learned counsel for the petitioner and upon perusing the record, there is no case made out to interfere with the impugned order.

5 In the first place, despite directions made by this Court to clear the arrears, the petitioner does not appear to have cleared the arrears.

6 Secondly, the petitioner was directed to pay interim maintenance @ Rs.15,000/- per month, by the order dated 27.09.2013. The Writ Petition instituted by the petitioner against the order dated 27.09.2013 had been dismissed by this Court. Despite all this, the petitioner, does not appear to have paid any maintenance in pursuance of order dated 27.09.2013. In any case, there are substantial arrears which the petitioner is required to pay. At one stage, undertaking was furnished by the petitioner that atleast 50% of the arrears will be paid. This undertaking was not complied with by the petitioner upon the spacious plea that the same was given by his Advocate and, therefore, not binding upon him. As of today, there is no stay in the matter of compliance with the order dated 27.09.2013. In fact, the order dated 27.09.2013 has been specifically upheld by this Court. Despite, the petitioner has not complied with the directions for payment of interim maintenance therein. Such conduct, hardly entitles the petitioner to invoke the equitable jurisdiction of this Court under articles 226 and 227 of the Constitution of India. In fact, it is quite clear that even the purpose of instituting the present Petition, is to avoid compliance with directions of payment of interim maintenance in pursuance of order dated 27.09.2013.

7 The impugned order has correctly recorded that the liberty granted by this Court was upon production of evidence that the respondent has obtained employment with some hospital or earning any amount as a medical practitioner. The petitioner has failed to produce any reliable material in this regard. The Trial Court, has taken into consideration the truncated material produced by the petitioner and rightly refused to give any credence to the same. It is the case of the respondent that she has no fixed job like the petitioner and further, on account of litigation, she is in depressed state of mind and, therefore, unable to take up any job.

8 The trial Court has rightly observed that there was no case made out by the petitioner for seeking any variation. There is no jurisdictional error in the making of impugned order. The petition, is, therefore, dismissed with costs of Rs.15,000/-. The costs to be paid by the petitioner to the respondent within a period of 4 weeks from today.

9 The petitioner is directed to place a copy of this order before the trial Court within a period of two weeks from today.

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

(M.S. SONAK, J.)