

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Writ Petition No. 1024 of 2015
[Sau. Shailbala wife of Sameer Burman Vs. Sameer Ramavatar Burman]

**Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.**

Court's or Judge's orders

Mr. M.P. Kariya, Adv., for the petitioner.
Mr. Nitin Lalwani, Adv., for respondent sole.

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CORAM : A.S. CHANDURKAR, J.

DATE : 05th August, 2016

Heard.

The challenge in the present writ petition is to the order passed by the learned Judge of the Family Court dated 9th December, 2014 directing the respondent to pay maintenance as an interim measure, at the rate of Rs. 2,000/- per month, to the petitioner. Being aggrieved by the quantum of maintenance, the said order is challenged by the petitioner.

Shri Kariya, the learned counsel for the petitioner, submitted that the amount of maintenance granted is on a lower side, considering the fact that the respondent was well placed and had been serving as Associate Professor in a College. It was submitted that to avoid

the liability of payment of maintenance, the respondent resigned from his services. It was further submitted that the petitioner was required to reside at her parents' house and, therefore, the amount of maintenance granted at the rate of Rs. 2,000/- per month was on a lower side.

Shri Lalwani, the learned counsel for the respondent, supported the impugned order, and submitted that the application for maintenance was filed in April, 2014 and the respondent had resigned from his job in February, 2014. He submitted that in the proceedings initiated under the Protection of Women from Domestic Violence Act, 2005, an amount of Rs. 1500/- per month has been granted to the petitioner by order dated 5th January, 2016. He states that this order has not been challenged by the respondent. Further, the respondent is residing at his parents' house and is presently unemployed.

Having heard the respective counsel, it can be seen that the letter of resignation placed on record is dated 12th February, 2014. Admittedly, the application seeking interim maintenance was moved in April, 2014. In para 4 of the reply, filed on behalf of the respondent, it has been stated that presently he is unemployed. If the amount granted by way of interim maintenance in the proceedings under the Protection of Women from Domestic Violence Act, 2005, is taken into consideration, the total amount, which the petitioner is entitled to

receive, would be Rs. 3,500/-. In that view of the matter, accepting the statement made on behalf of the respondent in para 4 of the reply, at this stage, I do not find any case made out to interfere in the writ jurisdiction. By observing that the petitioner would be entitled to receive total maintenance of Rs. 3500/- [rupees three thousand five hundred only] per month in terms of the orders dated 9th December, 2014 passed by the Family Court and 5th January, 2016 passed by the learned Magistrate, the Writ Petition is dismissed. No costs.

Judge

[hedau]