

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.931 OF 2016
(Anita Ambadas Aargade Vs. Ambadas Ramrao Aargade)

Mr.Y.S.Choudhari, Advocate for the petitioner.
Mr.Vaibhav Deshmukh, Advocate for the respondent.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 23/06/2017

PER COURT :

1. The petitioner/wife is aggrieved by the order dated 15/12/2015 passed by the Trial Court vide which Exhibit 5 is partly allowed granting monthly maintenance of Rs.1,000/- to the petitioner.

2. I had heard the learned Advocates for the respective sides at length on 22/06/2017. After expressing my view that this is a fit case for enhancing the monthly maintenance in between Rs.4,000/- to Rs.5,000/-, learned Advocate for the respondent sought time to take instructions.

3. Today, the respondent/husband is present in the Court and on his instructions, it is stated that he is agreeable to pay Rs.4,000/- per month as a monthly maintenance. It is prayed that this amount of maintenance may not be made applicable either from the date of the

application or from the date of the impugned order. Statement is made that the respondent is not in arrears till June 2017.

4. My judicial conscience is shocked by the nature of the impugned order.

5. The salary slip of the respondent/husband was before the Trial Court. His two salary certificates indicate that his salary was in between Rs.24,300/- to Rs.38,165/- and he also has an agricultural land from which it is stated that he gets a substantial monthly income.

6. Contentions before the Trial Court are that because the petitioner could not conceive a child, the respondent has got married for the second time and has two sons and two daughters from his second wife. Thereafter, a marital discord emerged and the petitioner is alleged to have been driven out of her home. It is alleged that she was compelled to stay with her parents. It is said that she has 1 acre of land. It is undisputed that the respondent/husband was a Police Officer as an Inspector with the State Reserve Police Force. Learned Advocate for the respondent now submits that he has superannuated on 31/03/2017.

7. I am surprised as to how could the Trial Court conclude that Rs.1,000/- per month was enough for the petitioner to survive and

sustain herself by catering to her basic needs. Paragraph No.20 bears out the conclusions of the Trial Court. Neither any logic nor any reason supports such a conclusion. I find that the learned 2nd Jt.Civil Judge, J.D. Georai has not only passed the impugned order casually, but it reflects insensitivity or non-application of mind.

8. In the light of the above, the impugned order to the extent of clause 2 granting Rs.1,000/- as a monthly maintenance is set aside and replaced by an order to the respondent to pay Rs.4,000/- (Rs.Four thousand only) per month effective from 01/07/2017, in the light of the statement made before this Court. Needless to state, this would be subject to the final result in RCS No.743/2014.

9. This petition is, therefore, allowed in the above terms.

10. The learned Registrar (Judicial) is directed to place a copy of this order before the learned Judge (Formerly 2nd Jt.Civil Judge, J.D. Georai and presently Assistant Charity Commissioner, Mumbai Mr.P. A. Jagdale) and a copy shall also be placed before the learned Charity Commissioner, Mumbai.

(Ravindra V.Ghugre, J.)