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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.8843 OF 2016

Dr. Mohammad Nomani s/o Mufti Taher,
Age: 32 years, Occ: Education,
R/o. Bashir Ganj, Beed,
Tq. & Dist. Beed. ..PETITIONER

VERSUS

Shabana Begum w/o Mohammad Nomani,
Age: 34 years, Occ: Household,
R/o. Beed, Now at Pathri, Tq. Pathri,
Dist. Parbhani, C/o. Bharat Hotel,
Opposite S.T. Stand. ..RESPONDENT

Mr C.V. Dharurkar, Advocate h/f Mrs. Vinaya
Dharurkar (Muley), Advocate for petitioner;
Mr P.I. Ippar, Advocate for respondent

CORAM : NITIN W. SAMBRE, J.

DATE : 21st SEPTEMBER, 2017

ORAL ORDER :

Heard Mr. Dharurkar, learned Counsel for the petitioner for some time. He would submit that the Court, by way of impugned order, has awarded maintenance of Rs.4000/- per month, which is disproportionate to the known source of income of the petitioner, apart from the fact that in the

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proceedings under Section 125 of the Code of Criminal Procedure and under Protection of Women from Domestic Violence Act already total Rs.6000/- is being paid by the petitioner to the respondent-wife. By inviting attention of this Court to the *roznama* in the proceedings of the Court below, in which, the impugned order is passed, he would urge that the proceedings were delayed at the behest of respondent-wife and as such, the amount should have been ordered from the date of order and not from the date of application.

2. Considered his submissions. It is not in dispute that the petitioner-husband is in the employment of Zilla Parishad as Doctor and presently pursuing the post graduation. The petitioner is getting salary more than Rs.40,000/- per month, of which under D.V. Act proceedings and under Section 125 of the Code of Criminal Procedure, he is paying Rs.2800/- and 3200/- respectively.

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3. What is ordered by the Court below by way of order under challenge is additional Rs.4000/-.

4. Considering known source of income of the petitioner, which is more than Rs.40,000/- per month, in my opinion, the amount of Rs.4000/- is ordered, which is during pendency of Regular Civil Suit No. 334 of 2010 cannot be termed to be disproportionate to the salary and other income of the petitioner.

5. It is then to be noted that the order is passed directing the petitioner to pay amount of Rs.4000/- towards maintenance from the date of application at Exhibit-28. Though learned Counsel has invited attention of this Court to the *roznama* of the proceedings to show that the respondent-wife sought adjournment at some time, however, it is to be noted that even law contemplates right in party to seek adjournment and adjournments as are granted by the Court below cannot be termed to be unreasonable, as for some period, the petitioner

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and respondent resided together.

6. In this view of the matter, no point for consideration under extraordinary jurisdiction is made out. The writ petition, as such, fails and stands dismissed.

7. The observations made herein above are only restricted to the findings recorded qua legality of the order impugned and the findings recorded herein shall not be impressed upon at the time deciding the proceedings under Protection of Women from Domestic Violence Act and under Section 125 of the Code of Criminal Procedure, as it is always open for the petitioner to seek adjustment of the amount of maintenance.

(**NITIN W. SAMBRE, J.**)

Tupe