

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10431 OF 2017
(Nilesh Ashokrao Gadekar Vs. Pooja w/o Nilesh Gadekar)

Mr.A.P.Ghule Patil, Advocate for the petitioner.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 29/08/2017

PER COURT :

1. The petitioner is aggrieved by the order of the Family Court dated 29/05/2017 awarding interim maintenance @ 5,000/- p.m. to a minor daughter and Rs.2,000/- to the respondent/wife.

2. Grievance of the petitioner is that the wife works in a factory and is drawing a salary of Rs.14,000/- per month. He himself has resigned from his employment and is no longer in service. He is also taking treatment for Tuberculosis and is unable to pay maintenance to the wife. The petitioner has drawn my attention to the grounds (A) to (Q) formulated in the memo of the petition and submits that the impugned order deserves to be quashed and set aside.

3. During the course of the hearing in this matter on 28/08/2017, I proposed to the petitioner that if he deposits the arrears of

maintenance towards the child, who is taking education in a well known school at Aurangabad, I may entertain this petition to the extent of the challenge to the paltry maintenance granted to the wife. Today, learned Advocate for the petitioner submits on instructions that he cannot deposit the arrears of maintenance amount to be paid to the child. It is, therefore, apparent that the petitioner / husband is not inclined even to maintain the child on the only plea that the mother of the child is earning.

4. The petitioner is said to be working in a Eviska Solution Private Limited, Mumbai as a Marketing Executive Officer. His gross monthly income was Rs.35,000/-. He resides with his parents. His father is a retired employee of the erstwhile Maharashtra State Electricity Board and is a pensioner. The contention of the petitioner is that since he has recently resigned, he has no source of income. This defence of resigning from employment and being unable to pay maintenance by sitting idle, cannot be countenanced.

5. The gross salary of the wife is Rs.14,000/- as has been noted by the Family Court on the basis of the record. She has to survive in the net amount after deductions and also cater to the needs of the child

who is admitted in a reputed school. The expenses of the wife and the child cannot be sustained in her meager salary of Rs.14,000/-.

6. Considering the above, I do not find that the order of the Family Court granting interim maintenance could be said to be a serious financial burden on the petitioner. This petition, being devoid of merit, is therefore, dismissed.

7. Notwithstanding the above, the petitioner is at liberty to prove before the Family Court that he is presently unemployed. He, however, will have to establish that despite his efforts, he is unable to acquire new employment. He may also request the Family Court to decide the maintenance proceedings, as expeditiously as possible.

(Ravindra V.Ghuge, J.)