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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7788/2014

Pawan s/o Babaurao Gaikwad,
age 30 yrs., occu.service,
r/o Sent Look Hospital,
Shrirampur Tq.Shrirampur
Dist.Ahmednagar.

...Petitioner..

Versus

Dr.Priya w/o Pawan Gaikwad,
age 26 yrs., occu.service and
household, r/o c/o Pradeep s/o
Kashinath Shelke, Shrirampur,
Near Bharat Bekri, Bolhegaon.
Tq. & Dist.Ahmednagar.

...Respondent...

.....

Shri K.N. Shermale, Advocate for petitioner.
Shri Gajanan G. Kadam, Advocate for respondent.

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CORAM: M.S. SANKLECHA, J.

DATE: 11.04.2017

ORDER :

1] At the request of learned counsel for the parties,
the petition is taken up for final disposal at the stage
of admission.

2] This petition challenges the order dated 25.6.2014
passed by the learned District Judge, Ahmednagar. The
impugned order directs the petitioner to pay an amount of

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Rs.9,000/- per month to the respondent (wife) as interim alimony from the date of filing of the petition.

3] The grievance of the petitioner is that the impugned order is a non-speaking order inasmuch as after recording that the petitioner's income is Rs.18,000/- per month, the Court has awarded maintenance of Rs.9,000/- per month to the respondent (wife). This is done without considering the petitioner's submissions that from the salary of Rs.18,000/-, there are statutory deductions of Rs.2,000/- and the balance Rs.16,000/- is required by him to maintain his unmarried sister, his mother and himself. These aspects, though indicated in the reply filed by the petitioner, were not taken into account while directing the petitioner to pay to the respondent a sum of Rs.9,000/- per month.

4] It is an undisputed position that the petitioner has not paid any alimony to the respondent in terms of the impugned order till date. The petitioner has challenged the impugned order in this Court. While issuing notice on 10.9.2014, this Court had granted ad interim relief to the petitioner on the condition that the petitioner deposits a sum of Rs.25,000/-. The petitioner has, in

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terms of the order of this Court dated 10.9.2014, deposited a sum of Rs.25,000/- in the District Court, Ahmednagar.

5] In terms of the impugned order dated 25.6.2014, the petitioner would have had to pay to the respondent (wife) in an aggregate a sum of Rs.3,69,000/- from the date of the petition till today. However, in view of ad interim stay, the petitioner was not obliged to pay with effect from 10.9.2014. Be that as it may, justice would require that the petitioner pays some maintenance to the respondent (wife) till a view is taken in the marital dispute. Mr.Shermale, learned counsel appearing for the petitioner, on instructions states, in order to show his *bona-fides*, the petitioner has already deposited a sum of Rs.25,000/- and he would further deposit a sum of Rs.50,000/- in District Court within a period of 15 days from today.

6] Therefore, the impugned order dated 25.6.2014 is not sustainable on account of the fact that it is a non-speaking order inasmuch as it has not considered various submissions made on behalf of the petitioner while directing interim maintenance of Rs.9,000/- per month to

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be paid to the respondent (wife). This dealing with the submissions while passing an order is absolutely necessary in discharge of judicial duties. This alone would ensure a safeguard against arbitrariness and ensure that the authority does not pass orders which are perverse. Therefore, this is a fit case to exercise my jurisdiction under Article 227 of the Constitution of India.

7] On the deposit of further amount of Rs.50,000/- being made, the respondent (wife) would be at liberty to apply to the District Court, Ahmednagar, to withdraw the aforesaid amount in the aggregate of Rs.75,000/-. This withdrawal by the respondent (wife) would be subject to result of the petition pending before the District court.

8] The writ petition is disposed of in above terms. All contentions of the parties are kept open. The trial Court shall decide the issues arising before it uninfluenced by any observations made in this order.

(M.S. SANKLECHA, J.)