

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10236 OF 2017

Satish Dharmu Rathod
Age 29 years, Occ. Education
R/o Crime Branch Quarters,
No.6, First Building, MIDC
Policy Colony, Maheshwarinagar,
Andheri (E). ..Petitioner

Versus

Smt. Sushma Satish Rathod
Age 23 years, Occ. Household
at present r/o c/o Ganpat
Harilal Pawar, Plot No.2,
Prabhatnagar, Bhausingpura,
Aurangabad. ..Respondent

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Advocate for Petitioner : Shri Deshmukh Arvind
Advocate for Respondent : Shri Salgar Suresh P.
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CORAM : RAVINDRA V. GHUGE, J.
Dated: August 21, 2017
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ORAL JUDGMENT :-

1. Heard learned Advocates for the respective parties.
2. Rule.
3. By consent, Rule is made returnable forthwith and the petition is taken up for final disposal.

4. The petitioner is aggrieved by the order dated 19.6.2017 passed by the learned Principal Judge, Family Court, granting Rs.5,000/- as interim maintenance from the date of the application i.e. 10.3.2017.

5. The grievance of the petitioner is that as he failed to file his say to the application Exhibit 10, by which the respondent / wife sought interim maintenance, the impugned order is practically an ex-parte order.

6. I have considered the submissions of the learned Advocates for the respective sides.

7. It is apparent that the petitioner was negligent and did not file his say inspite of several opportunities. Notwithstanding the same, the impugned order is without considering his contentions. The petitioner claims to be unemployed, though his father is an Assistant Police Inspector.

8. I find that had the petitioner been diligent and had filed his say in time, his contentions would have been considered.

9. Considering the above, this petition is partly allowed and the impugned order dated 19.6.2017 is set aside with the following directions:-

(A) Application Exhibit 10 is restored to the file of the Principal Judge, Family Court, Aurangabad.

(B) The impugned order is quashed by imposing costs of Rs.5,000/- upon the petitioner for having failed to be diligent.

(C) The arrears of interim maintenance are said to be about Rs.11,000/- since the petitioner claims to have paid Rs.14,000/- by depositing it in the Court below. Consequentially, the petitioner shall deposit the arrears of interim maintenance before the Court below and would continue to pay the said interim maintenance till the decision on application Exhibit 10.

(D) The petitioner shall deposit the amount of costs and the arrears of interim maintenance on/or before 8.9.2017, failing which, this order shall stand recalled and the impugned order dated 19.6.2017 shall stand restored.

(E) The petitioner shall file his say to Exhibit 10 on/or before 8.9.2017.

(F) The Family Court shall endeavour to decide application Exhibit 10 within eight weeks from the date of depositing the costs and arrears of the interim maintenance.

10. Rule is made partly absolute.

(RAVINDRA V. GHUGE, J.)

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