

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12319 OF 2017
(Dyaneshwar s/o Jagannath Gande Vs. Ashvini w/o Dyaneshwar
Gande)

Mr.V.H.Pathade, Advocate for the petitioner.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 12/10/2017

PER COURT :

1. The petitioner / husband is aggrieved by the impugned order dated 08/08/2017 passed by the Trial Court granting interim maintenance of Rs.3,000/- p.m. to the respondent/wife, who has a small child born out of the wedlock.
2. Contention of the petitioner is that he is a labourer and has no source of income. He is required to take care of his old mother. Without assessing the earning capacity of the petitioner, the Trial Court has awarded an exorbitant amount as an interim maintenance.
3. I have considered the submissions of the learned Advocate for the petitioner and have gone through the grounds set out in the memo of the petition.

4. In the impugned order, the Trial Court has recorded that the petitioner has an agricultural land and the income could be around Rs.7,00,000/- p.a. The fact that the petitioner has an agricultural land was not disproved before the Trial Court. The respondent / wife, who seems to have the knowledge about the petitioner's agricultural land being his wife, has pointed out to the Trial Court that the petitioner earns considerable income from agricultural activities.

5. It cannot be ignored that the respondent has no source of income and a child is born out of the wedlock who is residing with the respondent/wife.

6. Considering the above, I do not find that the amount of Rs.3,000/-, granted as interim maintenance per month, could be said to be an exorbitant amount. Even in that amount, I wonder whether the respondent could sustain herself and her son.

7. As such, this petition, being devoid of merit, is therefore, dismissed.

(Ravindra V.Ghugre, J.)