

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 419 OF 2017

MR. SEBASTIAO FERNANDES AND 2
ORS.,

... Petitioners

Versus

MRS. FLORA FERNANDES.

... Respondent

Adv. Galileo Francisco Teles for the Petitioners.

Coram:- C. V. BHADANG, J.

Date:- 23rd August 2017

P.C.:

The petitioners are challenging the order granting maintenance to the respondent under the provisions of the Protection of Women from Domestic Violence Act 2005. The petitioner no.1 is the husband of the respondent, while the petitioners nos.2 and 3 are their sons. The respondent approached the learned Magistrate under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 inter alia seeking maintenance and other reliefs. The learned Magistrate by an order dated 17/12/2016 directed each of the petitioners to pay interim maintenance of Rs.5000/- per month to the respondent. The petitioners carried the matter in revision before the learned Sessions Judge. The learned Sessions Judge by the impugned judgment and order dated 15/4/2017

modified the order of interim maintenance directing the petitioner no.1 to pay interim maintenance at the rate of Rs.3000/- per month and the petitioner nos. 2 and 3 and the third son Vijay were directed to pay interim maintenance of Rs.5000/- each per month. Feeling aggrieved, the petitioners are before this Court.

2. By an order dated 2/5/2017, this Court had granted ad interim relief against recovery of the maintenance subject to the following conditions:

(a) The petitioner no.1 shall pay an amount of Rs.2000/- per month to the respondent regularly on or before the 5th of each month until further orders.

(b) The petitioner nos. 2 and 3 to pay the respondent an amount of Rs.3000/- each, regularly on or before the 5th of each month.

(c) The arrears at the same rate w.e.f 22/11/2016 to be paid to the respondent on or before the 12th June 2017. The petitioners are at liberty to clear the arrears by way of installment if they choose to. It is clarified that the payment can be made by cheque/demand draft or deposit in the bank account of the respondent.

(d) There is no stay granted in so far as the impugned order concerns Mr. Vijay Fernandes. Therefore, the respondent will be at liberty to execute the order as against Vijay Fernandes.

(e) It is made clear that in case there is any default of payment on

the part of the petitioners, they shall have no benefit of this interim order.

(f) It is clarified that the ad interim relief order is restricted only to issue of payment of maintenance and therefore, all other directions referred to in the impugned order i.e with regard to the right of the respondents to the shared household etc. are not disturbed and the same shall remain operative.

3. The learned counsel for the petitioners states that the said order has been complied with and an affidavit of compliance to that effect dated 5/7/2017 is filed on record.

4. This Court on 26/4/2017 had issued a notice for final disposal as there was no appearance on behalf of the respondent. In spite of service, none appears for the respondent. The record discloses that there were some attempts made for amicable settlement which eventually did not materialize. However, considering the fact that the matter was fixed for final disposal, I have heard the learned counsel for the petitioners and perused record.

5. On hearing the learned counsel for the petitioners and perusal of the record it appears that the proceedings were taken by the respondent no.1 before the learned Deputy Collector and S.D.O, Maintenance Tribunal, Quepem, Goa under the Goa Maintenance and Welfare of Parents and Senior Citizens Rules,

2009, and an elaborate arrangement was worked out by consent of parties, as per the Order dated 21/2/2017, in which the petitioner no.1 had agreed to pay Rs.2000/- per month, while the petitioner nos.2 and 3 had agreed to pay Rs.2500/- per month as maintenance. The learned counsel points out that the petitioner no.2 and 3 are paying over and above the agreed amount i.e. at the rate of Rs.3000/- per month. He further points out that the application before the learned Magistrate is at the stage of recording evidence. Considering the overall circumstances, I find that it would be appropriate if the petition is disposed of in terms of the interim order dated 2/5/2017. Ordered accordingly.

C. V. BHADANG, J.

ap/-