

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5514 OF 2017

Vijay S. Nikam .. Petitioner
vs.
Deepali V. Nikam .. Respondent

Mr.Vaibhav R. Gaikwad for the Petitioner.

CORAM : M. S. SONAK, J.
DATE : 08 DECEMBER 2017

P.C. :-

1] Heard Mr. Vaibhav Gaikwad, learned counsel for the petitioner.

2] The challenge in this petition is to the order dated 13th January 2017, by which, the learned Trial Judge has awarded the interim maintenance of Rs.8,000/- to the wife and two minor children.

3] Mr. Gaikwad, learned counsel for the petitioner, submits that the petitioner on account of health reasons is unemployed and therefore, earning no income whatsoever. He submits that the amount of Rs.56 Lakhs which the petitioner had earned was invested in a business and since, the business has failed the amount is no longer available. He submits that the petitioner provides for grocery

and educational expenses of the children. He submits that all these matters have not been considered by the learned Trial Judge, the impugned order warrants interference.

4] In this case, the petitioner, has not denied the receipt of Rs.20 lakhs as recorded in paragraph 7 of the impugned order. In the reply, the petitioner has merely stated that for health reasons, he is presently unemployed and earning no income. The same is the position with regard to the payments towards grocery/educational expenses. The petitioner has not at all been candid or fair to the Court or to his own family members. In fact, the amount of maintenance awarded appears to be inadequate.

5] The learned counsel for the petitioner admits that though this order was made on 13th January 2017, the petitioner has not yet paid any maintenance to the wife and two children.

6] It is quite clear that the entire purpose of instituting this petition was only to avoid or delay the payments of maintenance. Learned counsel for the petitioner points out that there is already an application filed by the wife seeking striking out of the defence of

the petitioner. The said application will have to be decided on its own merits and in accordance with law. However, the petitioner not paying any maintenance at all merely on the ground of pendency of this petition is not to be appreciated.

7] Accordingly, this petition is dismissed with costs assessed at Rs.10,000/- within four weeks from today. The Trial Court to ensure that such costs are recovered from the petitioner.

8] The petitioner is directed to place the authenticated copy of this order before the Trial Court on the next date of hearing and thereafter file an affidavit in this Court to the effect that a copy has been indeed placed. The petitioner is also directed to file affidavit of compliance with regard to payment of costs within a period of four weeks from today.

9] The Registry is also directed to transmit an authenticated copy of this order to the Trial Court.

(M. S. SONAK, J.)