

**FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3062 OF 2016

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr.Shyamsunder Solanke i/b Mr.Pratap Patil for the Petitioner

CORAM : K. K. TATED, J.

DATE : JULY 31, 2017

P.C.:

1 Heard the learned counsel for the petitioner.

2 By this petition under Article 227 of the Constitution of India, the Petitioner challenges the order dated 23.10.2015 passed by Civil Judge, Senior Division, Islampur below Exhibit-18 in Hindu Marriage Petition No.19 of 2014 directing petitioner husband to pay sum of Rs.5,000/- per month by way of maintenance charges to the respondent wife and her 3 ½ years daughter. Court also directed petitioner to pay sum of Rs.500/- by way of cost and Rs.3,000/- for litigation charges.

3 The learned counsel for the petitioner submits that order passed by the Trial Court is against justice, equity and good conscience and same is liable to be set aside. He submits that in

the present proceedings, petitioner filed Hindu Marriage Petition No.91 of 2014 under section 13(1)(1a) of the Hindu Marriage Act, 1955 for divorce on several grounds. He submits that in that Hindu Marriage Petition, respondent filed application under section 24 of the said act claiming maintenance charges @ Rs.5,000/- for herself and Rs.5,000/- for daughter. He submits that respondent on her own admitted in her application that petitioner was earning Rs.10,000/- per month. He submits that during the pendency of application for maintenance charges, respondent wife filed application below Exhibit- 25 dated 3.8.2015 stating that petitioner got promotion and he is working as a branch manager. He submits that even the Trial Court recorded in impugned order that respondent wife failed and neglected to place on record any documentary evidence to show that petitioner got promotion and was working as branch manager. He submits that it is very difficult and impossible for the petitioner to pay Rs.5,000 per month to the respondent towards maintenance charges. He himself is getting salary of Rs.3,200/- per month. He further submits that during the pendency of the present Writ Petition, petitioner's service got terminated on 1.8.2015. He submits that these facts were not considered at the time of passing impugned order. Hence, in the interest of Justice this Hon'ble Court

be pleased to set aside the impugned order by which Trial Court directed petitioner to pay sum of Rs.5,000/- per month by way of maintenance to the respondent wife and daughter. He submits that if order is not set aside, irreparable loss will be caused to them.

4 I have heard the learned counsel for the petitioner.

5 It is to be noted that in the present proceedings, petitioner himself filed Divorce Petition under section 13(1)(1a) of the said Act. Though the petitioner pleaded before the Trial Court that respondent wife is working but he failed to place on record any documentary evidence to that effect. In any case, as on today from the pleading it is very clear that respondent wife has to maintain herself as well as her minor daughter of 3 ½ years old. The Trial Court has awarded sum of Rs.5,000 per month for both of them.

6 Considering the present inflation, I am of the opinion that petitioner has not made out any case to interfere with the well reasoned order passed by the Trial Court. Hence, Writ Petition stands rejected.

(K.K.TATED, J.)