

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (STAMP) NO. 22158 OF 2016

Mohan Namdeo Parab	..	Petitioner
vs.		
Sunita Mohan Parab	..	Respondent

Mr. Rupesh Lanjekar i/b. Mr. A. J. Dubey for Petitioner.
Mr. Y. S. Bhate with Mr. Upendra Lokegaonkar for Respondent.

CORAM : M. S. SONAK, J.
DATE: 07 DECEMBER 2017

P.C :

- 1] Heard Mr. Lanjekar for the petitioner and Mr. Bhate for the respondent.
- 2] Rule. With the consent of and at the request of the learned counsel for the parties, Rule is made returnable forthwith.
- 3] The petitioner husband challenges the order dated 1st April 2016, by which the petitioner has been directed to pay interim maintenance of Rs.25,000/- per month to the respondent wife.
- 4] Mr. Lanjekar submits that the income of the petitioner through rentals of shops is in the range of Rs.50,000/- to Rs.60,000/- per month. He submits that the petitioner was earlier in partnership and the partnership business related to production of films. He however submits that this was the position almost 10 years ago and presently the petitioner is no longer involved in such business. He submits that the respondent suppressed the fact that she had income as beautician and agricultural income. He submits that the

respondent does not have to spend any amount for residence, as, the respondent resides in the house provided by the petitioner. Mr. Lanjekar submits that the petitioner is required to maintain the respondent's sister as well as the respondent's mother and this aspect has been ignored by the learned Family Court. For all these reasons, Mr. Lanjekar submits that the award of maintenance at the rate of Rs.25,000/- per month is exorbitant and is required to be set aside.

5] Mr. Bhate, learned counsel for the respondent submits that the respondent hardly earns Rs.3,000/- per month by assisting the beautician at a beauty parlour. He submits that there is no agricultural income, since, the respondent's family land is usurped by her brother. Mr. Bhate submits that the petitioner has no income to purchase clothes or to purchase food. He submits that the income of the petitioner is substantial i.e. in the range of Rs.1,75,000/- per month and even today, the petitioner is involved in production of TV Serials. For all these reasons, Mr. Bhate submits that there is no case made out to interfere with the impugned order.

6] Rival contentions now fall for determination.

7] On perusal of the record and the pleadings, one thing that is clear is that the petitioner was not candid to the Court in stating his true and correct income. The Family Court has rightly observed that in such situation some best judgment assessment is to be necessarily made. The material on record does indicate nexus between the petitioner and the film line. The material on record also indicates that the petitioner has been earning some amounts from out of the rentals of the four shops which he owns. Now, it is admitted that the petitioner earns about Rs.50,000/- to Rs.60,000/-

from out of such rentals.

8] Mr. Lanjekar is however right in his submission that even the respondent has not been totally candid to the Court. Even the respondent stated that she has no income whatsoever. However, now it transpires that the respondent is earning some income by working in a beauty parlour. There is a dispute with regard to the precise income. According to Mr. Lanjekar such amount is at least Rs.15,000/- to Rs.20,000/- per month. According to Mr. Bhate however the income is Rs.3,000/- per month. This aspect has not been considered by the Family Court.

9] There is no question of the petitioner claiming any discount because the petitioner purports to maintain the respondent's sister or the respondent's mother. Mr. Bhate submits that there are some allegations of relationship between the petitioner and the respondent's sister. This is really not an occasion for adverting to such allegations. However, if the petitioner, has volunteered and purportedly undertaken to maintain the respondent's sister or the respondent's mother, this is certainly not a ground on the basis of which the petitioner can claim some sort of discount to his liability to maintain his own wife.

10] The Family Court, has appreciated most of the aspects and there is really no case made out to interfere with the impugned order awarding maintenance except that the quantum of maintenance may require some modification. This modification is necessary because even the respondent was not altogether candid to the Court and now, it is admitted that the respondent, earns at least Rs.3,000/- per month by service at the beauty parlour.

11] For the aforesaid reasons, the amount of interim maintenance, is reduced from Rs.25,000/- to Rs.22,000/- per month. Save and except this modification, there is no case made out to interfere with the impugned order.

12] Rule is made partly absolute to the aforesaid extent. There shall be no order as to costs.

(M. S. SONAK, J.)

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