

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

WRIT PETITION STAMP NO.29216 OF 2016

Mr. Chetak Anil Jadhav

..Petitioner

Versus

Mrs. Priyanka Chetak Jadhav

..Respondent

Shri. Indrajeet R. Kulkarni for the Petitioner.

Mrs. Ketaki Datar for the Respondent.

CORAM : R. M. SAVANT, J.

DATE : 20th JANUARY, 2017

PC.

1 The writ jurisdiction of this Court is invoked against the order dated 20.05.2016 passed by the Leaned Judge of the Family Court, Thane. By the said order, the application Exh.13 filed by the Respondent herein came to be partly allowed and the Petitioner was directed to pay interim maintenance at the rate of Rs.7000/- per month towards minor daughter Saanvi from the date of application i.e. 01.08.2015. It was also directed that the Respondent herein to give access of the daughter to the Petitioner on the days mentioned in clause (5) of the said order. The said order also contained some other directions which are in the operative part which are not material for the purposes of the present Petition.

2 The Petitioner and the Respondent were married sometime in the year 2008 and are estranged. The Petitioner herein has filed a

Petition for divorce under Section 13(1)(i-a) of the Hindu Marriage Act, 1955, in which the Respondent wife has filed a counterclaim for restitution of conjugal rights. During the pendency of the said Petition, the instant application for maintenance came to be filed by the Respondent wife being Petition No.A-127 of 2014. It was the case of the Respondent wife that the Petitioner is working with a builder and that his income is more than Rs.50,000/- per month. The Petitioner herein who is the Respondent in the said proceedings filed his reply and denied the case of the Respondent wife. It was his case that the income of the wife is more than him and that out of the meagre income that he has, it is not possible for him to provide maintenance to the daughter. The Trial Court having regard to the material on record deemed it appropriate to fix the interim maintenance at Rs.7000/- per month. In so far as the access is concerned, the Trial Court was of the view that it was necessary to build a rapport between the father and the minor child therefore granted access in terms of clause (5) of the operative part of the impugned order.

3 The Learned Counsel for the Petitioner Shri. Indrajeet Kulkarni would seek to contend that the Petitioner on account of the pending litigation had to give up his job and is presently unemployed. The Learned Counsel would contend that whilst he was in employment the total earnings of the Petitioner were less than the Respondent wife.

He would therefore question the grant of interim maintenance in the sum of Rs.7000/- per month for the daughter Saanvi.

4 Per contra, the Learned Counsel appearing on behalf of the Respondent wife would support the impugned order and would contend that it is the obligation of the Petitioner to maintain his daughter. In my view, having regard to the material on record and considering the facts and circumstances of the case, the grant of interim maintenance at Rs.7000/- is required to be interfered with and modified to the extent that the Petitioner would be liable to pay interim maintenance towards daughter Saanvi in the sum of Rs.5000/- per month. The rest of the directions as contained in the operative part of the impugned as regards the maintenance being payable from the date of the application would continue to apply.

5 In so far as the access is concerned, This Court does not deem it appropriate to interfere with the directions as contained in clause (5) of the operative order.

6 However since the birthday of Saanvi is on 24.01.2017, the Petitioner would be entitled to access of Saanvi for a period of two hours which access would be given by taking the child Saanvi to Korum Mall,

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Thane. The Learned Counsel for the Respondent states that the Respondent would take the child at the entrance of the Korum Mall at 3.00 p.m. and would collect the child back at 5.00 p.m. It is expected of the parties that they abide with the aforesaid directions in letter and spirit. With the aforesaid directions, the Writ Petition is disposed of.

[R.M.SAVANT, J]