

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13626 OF 2016

Mr. Prakash Vaidyanathan] Petitioner

Vs.

Mrs. Parvathy Prakash Iyer] Respondents

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Mr. R.R. Salvi i/b Ms. Suvarna Telgote, for the petitioner.
Mr. Bharat Vaishnawa i/b M/s. Bharat Vaishnawa & Co., for
respondent.

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CORAM : R.G. KETKAR, J.

DATE : 18TH APRIL, 2017.

P.C.

Heard Mr. Salvi, learned Counsel for the petitioner and
Mr. Vaishnawa, learned Counsel for the respondent at length.

2. By this petition under Article 227 of the Constitution of India, the petitioner has challenged the judgment and order dated 5th August, 2016 passed by the learned Judge, Family Court No.4, Bandra, Mumbai below Exhibit 146 in Petition No. A-35 of 2015. By that order, the learned trial Judge partly allowed the application made by respondent/wife for seeking interim maintenance under Section 24 of the Hindu Marriage Act, 1955 [for short 'Act']. The learned trial Judge directed the petitioner to pay interim maintenance @ Rs. 60,000/- per month to the respondent from the date of application i.e 29.06.2015 till final decision of the petition.

3. In support of this petition, Mr. Salvi strenuously contended that the petitioner is working as Managing Consultant in HCL Auckland, New Zealand. He has taken me through the reply filed by the petitioner in March, 2016 opposing the application filed by the respondent/wife and in particular, paragraph 16 thereof. In paragraph-16, the petitioner has asserted that he is working in HCL, Auckland, New Zealand and getting a salary of NZ \$ 6490 (in Indian Rupees, 2,85,560/-). Out of the said income, he has to bear following expenses:

	NZ\$
House Rent	1820**
Electricity	130
Phone Internet	170
Monthly pass	50
Home loan	750
Loan Bank Credit Card	1600
Life Insurance	80
Medical Insurance	165
Food	400
Petrol	100
Car loan	399
Car Insurance	60
Dependent father	220
Total	5944(INR 2,61,536)

He submitted that while passing the impugned order, directing the petitioner to pay interim maintenance @ Rs. 60,000/- per month to the respondent from the date of application i.e 29th June, 2015 till final decision of the petition, learned trial Judge has not considered this aspect. It is impossible for the petitioner to comply with the impugned order having regard to his salary as also expenses required to be incurred by him every month.

4. On the other hand, Mr. Bharat Vaishnawa supported the impugned order. He invited my attention to paragraph 7 of the

impugned order wherein the learned trial Judge has considered income as also expenses which according to the petitioner he has to bear every month. Learned trial Judge observed that in spite of having sufficient source of income, he has failed to pay any maintenance to the wife and given the exaggerated figure of his expenses under various heads. He further submitted that the petitioner has not paid any amount as per the impugned order.

5. I have considered the rival submissions advanced by the learned Counsel appearing for the parties and I have also perused material on record. It is not in dispute that even according to the petitioner, he is getting a salary of NZ \$ 6490 (in Indian Rupees, 2,85,560/-). Learned trial Judge has considered his income, as also expenses mentioned in paragraph 7 of the reply. In other words, it cannot be said that the learned trial Judge has ignored the reply filed by the petitioner opposing the application for interim maintenance. In fact, after considering the reply, learned trial Judge observed that having regard to the expenses mentioned by the petitioner, it shows that he is maintaining high standard of living and figure of expenses given under various heads is exaggerated. For the reasons recorded in paragraph 7, I do not

find that the learned trial Judge has committed any error. Hence, no case is made out for invocation of powers under Article 227 of the Constitution of India. Hence, petition fails and the same is dismissed.

[R.G. KETKAR, J.]