

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

WRIT PETITION NO.133 OF 2017

Sunil Kashiram Gaikar

..Petitioner

Versus

Suyogi Sunil Gaikar and others

..Respondents

Mr. J. D. Saha i/by Mr. M. N. Bijutkar for the Petitioner.

CORAM : R. M. SAVANT, J.

DATE : 17th JANUARY, 2017

PC.

1 The writ jurisdiction of this Court is invoked against the order dated 19.08.2016 passed by the Family Court No.5, Mumbai, by which order, the application Exh.13 filed by the Respondent wife for seeking interim maintenance came to be partly allowed and interim maintenance in the sum of Rs.5000/- each came to be granted to the Respondents i.e. wife and the two children.

2 The Respondent No.1 wife herein filed the instant application for maintenance under Section 19(1) of the Family Court's Act. The Respondent No.1 claimed maintenance in the sum of Rs.15,000/- each from the Petitioner. It was the case of the Respondent No.1 that the Petitioner is having two cars and is involved in the business of Tours and Travels and earns about Rs.90,000/- per month. It is further

her case that no one is dependent on him and that in so far as she is concerned, she has borrowed monies from relatives for maintaining herself and her two children. It seems that the parties have a son and daughter who are 19 and 17 years old respectively and who are pursuing education.

3 The Petitioner herein who was Respondent before the Family Court filed his reply and denied that he is earning Rs.90,000/- per month. It was his case that he is working as a driver on private vehicles and earning Rs.10,000/- per month. It was further his case that the Respondent herein has deserted him. It was further his case that the Respondent has sold the room which was standing in her name for Rs.7,00,000/-, out of which amount she is earning interest. The Trial Court as indicated above has by the impugned order dated 19.08.2016 has partly allowed the said application and granted interim maintenance in the sum of Rs.5000/-. It seems that before the Trial Court the Petitioner herein had produced the certificate issued by one Lalbhai Kalidas and Company who are engaged in the business of diamonds. The said certificate is dated 17.02.2015. It states that the Petitioner is working with them and he is drawing a salary of Rs.17000/- and the certificate has been issued at the request of the Petitioner.

4 The Trial Court has observed that the said certificate could not be given any credence in view of the fact that it does not mention as to in which post the Petitioner is working, when he was appointed. Before the Trial Court, the Bank details of the Petitioner were produced through the witness of the Bank. In the account opening form, it is mentioned that the Petitioner's occupation is of a "Diamond Broker". The fact that car number MH-04-ES-4532 and MH-06-IJ-7908 were standing in the name of the Petitioner as the proprietor of Vivek Travels was brought on record. From the said material, the Trial Court concluded that the Petitioner is involved in running the business of Tours and Travels in the name and style of Vivek Travels. The Trial Court therefore concluded that the contention of the Petitioner that he was not having business is therefore a false statement. In so far as the amount of Rs.7,00,000/-, which the Respondent No.1 has allegedly got out of the sale of the room is concerned, the Trial Court held that no material in that regard was produced on record. The Trial Court therefore deemed it appropriate to fix interim maintenance at Rs.5000/- each for the Respondents, totally amounting to Rs.15,000/-.

5 In my view, having regard to the cost of living in today's times, the amount of interim maintenance fixed, cannot be said to be excessive or exorbitant considering the fact that the two children are

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aged 19 and 17 years respectively. Hence, no case for interference in the writ jurisdiction of this Court is therefore made out. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]