

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.936 OF 2017

Mahesh Ananadrao Khamkar ... Petitioner
Vs.
Pournima Mahesh Khamkar ... Respondent

Mr. Nikhil N. Pawar for Petitioner.
Mr. Bhushan Walimbe for Respondent.

CORAM : R. G. KETKAR, J.
DATE : APRIL 21, 2017

P.C. :

Heard Mr. Pawar, learned Counsel for petitioner and Mr. Walimbe, learned Counsel for respondent at length.

2. By this Petition under Article 227 of the Constitution of India, petitioner, husband has challenged the judgment and order dated 22.11.2016 passed by the learned Civil Judge, Senior Division, Islampur below exhibit-16 in Hindu Marriage Petition No.1 of 2016. By that order, the learned trial Judge partly allowed the application made by the respondent under Section 24 of the Hindu Marriage Act, 1955 (for short 'Act') and directed the petitioner to pay interim maintenance @ Rs.5,000/- per month from the date of the application namely, 01.07.2016. The learned trial Judge also directed the petitioner to pay Rs.700/- as and when respondent attends the proceedings before the trial Court. Application was allowed subject to payment of costs of Rs.5,000/- to be paid by the petitioner to the respondent.

3. In support of this Petition, Mr. Pawar submitted that petitioner is jobless. He has to maintain the parents. He submitted that the trial Court has awarded exorbitant maintenance. Having regard to his

earning capacity, the same may be reduced.

4. On the other hand, Mr. Walimbe invited my attention to paragraph 10 of the impugned order. He submitted that petitioner is cultivating 3 acres irrigated land. He is the only child. The learned trial Judge has considered this aspect. He, therefore, submitted that no case is made out for invocation of powers under Article 227 of the Constitution of India.

5. I have considered the rival submissions advanced by the learned Counsel appearing for the parties. I have also perused the material on record. For the reasons recorded in paragraphs 10 and 11 of the impugned order, I do not find that any case is made out for invocation of powers under Article 227 of the Constitution of India. Hence, Petition fails and the same is dismissed.

6. Mr. Walimbe submitted that while issuing the notice on 31.01.2017, this Court directed petitioner to deposit Rs.20,000/- in this Court. Accordingly, petitioner has deposited the same. Respondent may be permitted to withdraw the amount.

7. In view thereof, respondent is permitted to withdraw unconditionally the amount of Rs.20,000/- deposited by the petitioner in this Court, along with the accrued interest, if any. Order accordingly.

(R. G. KETKAR, J.)

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