

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 2459 OF 2018

LALIT DEVIDAS SAPKALE  
VERSUS  
MANISHA LALIT SAPKALE AND ANOTHER

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Advocate for Petitioner : Shri Naseem R. Shaikh

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CORAM : RAVINDRA V. GHUGE, J.  
Dated: March 09, 2018

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PER COURT :-

1. The petitioner / husband is aggrieved by the grant of interim maintenance to the respondent / wife at the rate of Rs.4,000/- per month by order dated 12.1.2018.

2. The grievance of the petitioner is restricted only to the extent of the interim maintenance granted to the wife. Contention is that she does not desire to live with the petitioner. She has deserted him. She has putforth a plea that if the petitioner arranges for an independent accommodation, she would reside with him. After the petitioner acquired an alternate accommodation, she stated that she will accompany him to the marital home from the Court. It indicates that she does not desire to reside with the petitioner.

3. Reliance is placed upon the judgment of the learned Division Bench of this Court in the matter of Shiv Kumar Singh Dagdusingh Thakur Vs. Smt. Malti Shiv Kumar Singh [2011 (4) Mh.L.J. 827], to support the contention that if a wife does not reside with her husband even when a separate accommodation is provided, it would amount to desertion.

4. I have considered the strenuous submissions of the learned Advocate for the petitioner and have gone through the record available, with his assistance.

5. The trial Court has noted that the petitioner is earning a monthly salary of about Rs.20,000/-. The husband contends that the wife is working in a School as she is qualified and may be getting a salary of Rs.2,000/- to Rs.4,000/-. There is, however, no evidence, as regards the nature of employment of the wife and the quantum of her income. The petitioner has not placed on record his latest gross salary receipt to support his contention in this Court that the husband earns a salary of Rs.3,600/- per month.

6. In so far as the quantum of interim maintenance is

concerned, I do not find that the same can be termed as being exorbitant or unusual.

7. In so far as the reliance placed by the petitioner on the judgment in the case of Shivkumar (supra) is concerned, the wife in the said case was residing in a property belonging to the husband. The learned Division Bench, therefore, held that when she is undoubtedly living in the same house, she could not establish that she was deserted by her husband. She was living in the same house in which her husband, sons and daughter-in-law are living. Considering these aspects, the learned Division Bench set aside the judgment of the Family Court granting maintenance to the wife. I do not find that the facts in the said case are even remotely similar to the case at hand.

8. The petition being devoid of merits is, therefore, dismissed.

( RAVINDRA V. GHUGE, J. )

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