

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD***

915 . WRIT PETITION No. 13604 of 2018

Chandrakant S/o Gangadhar Wagh ... Petitioner
Versus
Pramila W/o Chandrakant Wagh ... Respondent

Mr. S.R. Andhale, Advocate for petitioner

Coram : N.M. Jamdar, J.
Date : 7 December 2018.

ORAL ORDER:

1. By this petition, the petitioner has challenged the order passed by the learned Civil Judge (Senior Division), Ahemadnagar, dated 23 October 2018 directing the petitioner to pay interim maintenance at ₹ 10,000/- to the wife and ₹ 5000/- to the son.

2. The respondent and the petitioner got married on 20 May 2011. It is the case of the respondent that the petitioner is in service of Indian Army and has landed property. As regards the service in Indian Army, the factum is not disputed. The learned Civil Judge considering the record placed before him has fixed the interim maintenance at ₹ 10,000/- to the wife and ₹ 5000/- to the son. According to the respondent-wife, as she is being neglected and not maintained and considering the costs of living and the fact that respondent is a wife of a military person and the standard of living

expected to maintain, fixing of interim maintenance at the rate of ₹ 10,000/- for the wife and ₹ 5000/- for the son cannot be considered as grossly excessive so as to warrant interference in equitable jurisdiction of this Court.

3. The learned Counsel has relied upon the decision of the Apex Court in the case of *Kalyan Dey Chowdhury Versus Rita Dey Chowdhury Nee Nandy*.¹ In this case, the High Court had reviewed its own order and enhanced maintenance under Section 25(2) of the Hindu Marriage Act. In the present petition, it is not case that the respondent wife is not entitled to maintenance at all. The contention of the petitioner is only that the amount should be reduced. What is fixed is only the interim maintenance and not the final maintenance. At that time, the petitioner can argue all the contentions. No interference is warranted in the writ jurisdiction.

4. The writ petition is accordingly rejected.

5. It is clarified that the observations made in this order are prima facie and the proceedings before the learned Civil Judge will be decided on its own merits.

N.M. Jamdar, J.

¹ 2017 AIR (SC) 2383