

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3420 OF 2018

Babasaheb Pandharinath Sankapal	...Petitioner
vs.	
Pooja Babasaheb Sankpal	...Respondent

Mr. B.V. Salunkhe, for the Petitioner.
Mr. Manoj Bagar I/b. Ajit Savagare, for the Respondent.

CORAM : M. S. SONAK, J.

DATE : NOVEMBER 30, 2018

P.C.:

. Heard Mr. Salunkhe, learned counsel for the Petitioner and Mr. Manoj Bagar, for the Respondent.

2. The challenge in this Petition is to the order dated 28th November, 2017 by which the learned trial Judge has directed the Petitioner to pay interim maintenance of Rs. 3,000/- p.m. to Respondent-wife and minor son. Mr. Salunkhe, learned counsel for the Petitioner points out that in the proceeding under D.V. Act, the Petitioner is directed to pay maintenance of Rs. 4,000/- p.m. He point out that this order has been partially stayed and the direction to pay maintenance of Rs. 2,000/- p.m. is presently in operation. He point out that as per the salary certificate produced on record, the Petitioner's salary is hardly Rs. 8,000/- p.m. He

point out that the Petitioner has to take care of his aged parents who are suffering from knee pain and eye problem. He submits that the interim maintenance amount is quite excessive. He submits that the Respondent is earning Rs. 15,000/- to 20,000/- p.m. by carrying on stitching work.

3. Mr. Manoj Bagar, learned counsel for the Respondent defend the impugned order on the basis of reasoning therein. He submits that there is no error and therefore this Petition may be dismissed.

4. On perusal of the material on record, it is clear that the Petitioner earns approximately Rs. 10,552/-. Out of this the Petitioner, both in terms of the impugned order as well as the order under D.V. Act is required to pay interim maintenance of Rs. 5,000/- p.m. not just towards the maintenance of his wife but his minor son.

5. Taking into consideration that this is the case of interim maintenance and the quantum is not too excessive, there is really no case made out for interference.

6. There is no material produced on record by the Petitioner that Respondent is the only son looking after his parents. The Petitioner has only made statement that he looks after

his parents who are unable to do anything on account of knee pains and eyes problem. The Petitioner has produced certain case papers with regard to ailments suffered by his parents. However, these documents in no manner establish that besides the Petitioner's no other member of the family to look after or contribute to the requirement of the parents. Besides, there is no clear statement that the parents have no income whatsoever from any source.

7. There is no material on record to establish even *prima facie* that the Respondent-wife earns any income from taking up stitching work. Even if it is assumed that she earns some money for livelihood, this does not dis-entitle her to claim the maintenance. Ultimately, it is a good thing that she makes some efforts to earn some money so that her son and herself are taken care of at least to some extent. Accordingly, there is no case made out to interfere with the impugned order.

8. This Petition is dismissed.

9. There shall be no order as to cost.

(M. S. SONAK, J.)