

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1146 OF 2017

Mrs. Shraddha M. Barshikar .. Petitioner
vs.
Mr. Mohit B. Barshikar .. Respondent

Mr. R.A. More for the Petitioners.
Mr. A.B. Patil for the Respondent.

CORAM : M. S. SONAK, J.
DATE : 14 DECEMBER 2018.

ORAL JUDGMENT :-

- 1] Heard the learned counsel for the parties.
- 2] Rule. With the consent of and at the request of learned counsel for the parties, Rule is made returnable forthwith.
- 3] The challenge in this petition is to the order dated 16th July 2016. The operative portion of which reads thus:

“1] Application is partly allowed.

2] Petitioner Mohit Bapusaheb Barshikar is hereby directed to pay amount of Rs.500/- (Rs. Five Hundred only) maintenance pendente lite per month to the opponent Sau. Shradha Mohit Barshikar from the date of order i.e. from 16.07.2016 till further order.

3] Petitioner Mohit Bapusaheb Barshikar is hereby directed to pay traveling expenses on production of documentary proof i.e. ticket by the opponent Shradha Mohit Barshi on the date of proceeding on which she would remain present before the Court”.

4] Admittedly, under the proceedings initiated by the petitioner under the Protection of Women from Domestic Violence Act, 2005 (D.V. Act), the petitioner is now directed to be paid maintenance at the rate of Rs.5,000/- per month. This means that in terms of the impugned order as well as the order made under the D.V.Act, the petitioner is getting total interim maintenance of Rs.5500/- per month. In this view of the matter, there is no necessity to interfere with the impugned order, insofar as it determines the interim maintenance to the petitioner.

5] However, the petitioner in her application at Exhibit-34 which came to be disposed of by the impugned order dated 16th July 2016 had applied for maintenance not only for herself, but also for her two children who are aged 6 years (twins). From the perusal of the impugned order, it is seen that there is absolutely no consideration on the claim for interim maintenance in respect of two children.

6] Accordingly, the matter is required to be remanded to the Trial Court with directions to decide the application at

Exhibit-34 to the extent the said application claims interim maintenance on behalf of the two children. Accordingly, the matter is remanded to the learned Trial Court to decide the application at Exhibit-34 to the limited extent it seeks interim maintenance in favour of the two children.

7] It is made clear that this Court has not adverted to the merits of the claim of the interim maintenance on behalf of the children and therefore, all contentions of all parties are kept open to be determined by the learned Trial Court. The learned Trial Court to dispose of the issue of interim maintenance to the children as expeditiously as possible and in any case within a period of three months from today.

8] Parties to appear before the Trial Court on 7th January 2019 at 11.00 a.m. and produce authenticated copy of this order.

9] Rule is disposed of in the aforesaid terms. There shall be no order as to costs.

(M. S. SONAK, J.)