

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7396 OF 2016

Shekhar Harischandra Lonkar ...Petitioner
vs.
Nutan Shekhar Lonar ...Respondent

Ms. Aneeta Katariya, for the Petitioner
Mr. Nitesh Mohite I/b. Mr. Satyavrat Joshi, for Respondent.

CORAM : M. S. SONAK, J.

DATE : DECEMBER 11, 2018

P.C.:

. Heard Mr. Aneeta Katariya, learned counsel for the
Petitioner and Mr. Nitesh Mehta, learned counsel for the
Respondent.

2. Rule.

3. Rule is returnable forthwith and made absolute with
consent and request of the learned counsel for the parties.

4. The challenge in this Petition is to the order dated 28th
November, 2015 made by the learned trial Judge awarding the
interim maintenance of Rs. 15,000/- to the Respondent-wife and
Rs. 25,000/- to her minor daughter Ridhima who on the date of
the impugned order was 1 ½ year old.

5. Ms. Katariya submits that the learned trial Judge has

incorrectly assumed the income of the Petitioner as Rs. 1 lakh p.m. when the document on record establishes that his income was around Rs. 70,000/- p.m. She points out that out of this income, the Petitioner is required to pay E.M.I. of almost Rs. 28,000/- p.m. He submits that the Petitioner, even when, there was no order for payment of any maintenance was depositing Rs. 10,000/- p.m. in the Respondent's account towards maintenance of Respondent-wife and minor daughter. Ms. Katariya, therefore submits that the award of Rs. 15,000/- in favour of the wife is quite excessive and the same is required to be reduced. She submits that Respondent-wife has her own source of income and this aspect has also not been considered by the learned trial Court. She submits that the award of maintenance of Rs. 25,000/- p.m. in favour of Ridhima who was only 1 ½ year old is grossly excessive. She submits that there is absolutely no material placed on record by the Respondent-wife to justify such maintenance amount. She submits that in all probabilities the amount will be utilized by the Respondent-wife. The maintenance amount will not reach or will not substantially reach Ridhima. She therefore submits that the impugned order warrants modification.

6. Ms. Katariya, without prejudice to her aforesaid

contentions and on the basis of instructions from the Petitioner however states that the Petitioner is not at all averse to bear all the educational expenses of Ridhima. She also states that the Petitioner is not averse to making some investments by way of recurring deposit in the name of Ridhima so as to take care of her future needs as well. She states that the Petitioner will also make some investments in the Insurance scheme and welfare schemes like Sukanya Yojna etc. in the name of Ridhima.

7. Mr. Nitesh Mohite, learned counsel for the Respondent submits that there is absolutely no material that the Respondent-wife had no independent source of income and therefore the award of maintenance in her favour warrants no interference. He submits that even if so far as the maintenance of award to Ridhima is concerned the same is just and fair in the circumstances of the present case.

8. In this case, it is necessary to note that at least till now the approach of the Petitioner has been quite fair. The Petitioner has quite admirably agreed to bear the entire expenses relating to Ridhima's education and also offer to make some investments in her name so as to take care of future needs. Such approach on the part of the Petitioner is required to be appreciated.

9. In so far as the award of maintenance to the Respondent-wife is concerned, it is true that at least for the present, there is no material on record to indicate that wife had or has any independent source of income. Taking into consideration the award of maintenance @ Rs. 15,000/- in favour of the Respondent-wife is quite just and proper and the same warrants no interference.

10. In so far as the award of maintenance @ Rs. 25,000/- in favour of Ridhima is concerned, though overall quantum can remain the same, some modification is necessary because there is some merit in the apprehension expressed by Ms. Katariya, learned counsel for the Petitioner. If so much amount is paid each month by way of maintenance to Ridhima, then possibility of such amount being expended by Respondent-wife cannot be ruled out.

11. Taking into consideration, the various offers made by the Petitioner, particularly as regards the educational expenses of Ridhima and the investments in Ridhima's name, this Petition can be disposed of with the following order:-

- (a) The impugned order in so far as the award of maintenance of Rs. 15,000/- to the Respondent -wife is not interfered with.
- (b) The Petitioner shall however pay maintenance of Rs. 10,000/-

p.m. commencing from the month of January, 2019 to daughter Ridhima. This means that arrears shall have to be paid as per the impugned order at rate of Rs. 25,000/-.

(c) In so far as the balance amount of Rs. 15,000/- p.m. is concerned the Petitioner, with effect from 1st January, 2019, is directed to make recurring deposits in the name of Ridhima in which he must invest an amount of Rs. 10,000/- p.m.

(d) In addition the Petitioner to invest/expend an amount of at least Rs. 7,000/- p.m. towards the Insurance/Sukanya Yojana etc.

(e) The Petitioner shall not either stop making such investments or withdraw any amounts from the investments as aforesaid. The Petitioner was also file an affidavit before the trial Court accompanied by the documents as and by way of evidence of compliance of the aforesaid directions by 31st January, 2019.

(f) In addition to the aforesaid, the statement of the Petitioner that he shall bear all the educational expenses of Ridhima is accepted and the Petitioner is directed to accordingly bear all the expenses for Ridhima's education.

12. Rule is made partly absolute to the aforesaid extent. There shall no order as to the costs.

(M. S. SONAK, J.)