

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2716 OF 2018

Navneet Balachandra Rao	... Petitioner
Versus	
Sanjna Navneet Rao	... Respondent

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Ms. Sarah Kapadia i/b Kokila Kalra for Petitioner.
Mrs. A. P. Madhuri for Respondent.

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CORAM : K. K. SONAWANE, J.

DATE : 19th JULY, 2018.

P. C.:

1. Heard learned Counsel for the Petitioner and Respondent.
2. Present writ petition is filed against the impugned order passed by the learned Civil Judge, Senior Division, Panvel under Section 24 of the Hindu Marriage Act, 1955 in H. M. P. No. 138 of 2015. The learned trial Court directed the petitioner to pay interim maintenance at the rate Rs. 10,000/- per month to the respondent from 3rd August, 2015 till decision of the main petition. The learned Counsel for the petitioner-husband fairly conceded that the husband has no any objection about the

quantum of interim maintenance awarded by the learned trial Court. The learned Counsel ventilated the grievance that the husband has already paid the amount of interim maintenance granted by the learned trial Court to the respondent-wife. He has also discharged the monetary liability towards the expenses of education charges of the children. Learned Counsel shown inclination to produce the bank statement on record. Learned Counsel requested to stay the execution proceedings.

3. Learned Counsel for the respondent-wife raised the objection and submitted that the execution proceedings cannot be stayed at the behest of petitioner-husband in the present writ petition.

4. Heard the learned Counsel appearing on behalf of both sides. Perused the petition and other relevant documents produced on record. The present petition came to be filed against the interim order of learned Civil Judge, Senior Division, Panvel for payment of interim maintenance pending the proceedings of divorce instituted on behalf of petitioner-husband. Pending the proceedings, the respondent-wife filed application under Section

24 of the Hindu Marriage Act for interim maintenance. The learned trial Court passed the impugned order dated 30th July, 2016 and granted interim maintenance at the rate Rs. 10,000/- per month. The petitioner-husband has no dispute in regard to the quantum of maintenance amount determined by the learned trial Court. In the circumstances, there is no propriety to go deep into the allegations to test propriety and validity of the order under challenge in this writ petition. However, learned Counsel for the petitioner gave much more emphasis on the proceeding of recovery of interim maintenance initiated by the respondent-wife resulting into issuance of distress warrant by the learned trial Court. According to the learned Counsel, the husband has already discharged the entire liability as directed by the learned trial Court and no any amount of interim maintenance remained outstanding towards him. Therefore, he seeks interim relief to stay the execution proceedings.

5. In view of nature of the subject matter, it would cumbersome to appreciate the contentions propounded on behalf of petitioner-husband for grant of stay to the execution proceedings. The learned Counsel for the respondent-wife submits

that the respondent has made some part payment but rest of the amount is yet to be received from the petitioner-husband.

6. In view of controversy in between the spouses in regard to the arrears of outstanding dues, it would justifiable that the learned trial Court should deal with the present issue taking into consideration the bank statement and documents produced on record on behalf of petitioner-husband. Accordingly, the present writ petition deserves to be disposed of with directions to the petitioner-husband to appear before the learned trial Court i.e. the Civil Judge, Senior Division, Panvel and produce the entire relevant documents and the evidence in respect of the monetary liability of interim maintenance discharged on his part uptill this date. It is hereby directed that the learned trial Court shall take into consideration the entire factual aspect in regard to the payment already made by the petitioner-husband and take appropriate decision in the proceedings. With these observations the writ petition stands disposed of. No order as to costs.

(K. K. SONAWANE, J.)

Shridhar
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Sutar

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