

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 9960 OF 2016

Mr. Sachin Bhagwantrao Deshmukh	...Petitioner
<i>Versus</i>	
Mrs. Priyanka Sachin Deshmukh	...Respondent

....
Mr. R.M. Haridas, I/b. Pratik B. Rahade, Advocate for the Petitioner.
Mr. Abhijit D. Sarwate, Advocate for the Respondent.
....

CORAM : R. G. KETKAR, J.

DATE : 28th JUNE, 2018

P.C.

1. Heard Mr. R.M. Haridas, learned counsel for the petitioner and Mr. Abhijit Sarwate, learned counsel for the respondent, at length.
2. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the judgment and order dated 12.4.2016 passed by the learned Judge, Family Court No.2, Pune below Exhibit-9 in P.A. No.1249/2015. By that order, the learned trial Judge allowed the application made by the respondent for interim maintenance and directed the petitioner herein to pay interim maintenance of Rs.15,000/- per month to the respondent under Section 24 of the Hindu Marriage Act, 1955 (for short, 'Act') w.e.f. the date of the

application. The petitioner is restrained from creating any third party interest in respect of flat in Vasantarm Tirupati Constructions, Dhanori Lohegaon Road, Dhanori, Pune (for short, 'suit flat'), till disposal of the petition. The petitioner is further directed to make appropriate provision for accommodation of the respondent within 60 days from the date of the order.

3. In support of this Petition, Mr. Haridas invited my attention to the development agreement dated 15.10.2013 in respect of the property situate within the Municipal limits of Jalgaon as also Index II which records that Shri Ganadhiraj Constructions, a Partnership Firm had entered into agreement in favour of Smt.Shobha Jagdishchandra Pawar, whereunder the developer has agreed to sell flat No.304 admeasuring 33.08 sq. mtr. carpet area. He submitted that the learned trial Judge was, therefore, not justified in restraining the petitioner from creating any third party interest in the said flat till disposal of the petition and further issuing direction to the petitioner to make appropriate provision for accommodation of the respondent within 60 days of the order. He further submitted that the learned trial Judge was not justified in directing payment of interim maintenance @ Rs.15,000/- per month to the respondent.

4. Mr. Sarwate On the other hand submitted that the document i.e. development agreement dated 15.10.2013 is not produced on record. Insofar as Index-II relied upon by the petitioner is concerned, under that agreement the developer had agreed to sell flat in favour of Smt.Shobha Jagdishchandra Pawar, who is mother of the respondent not in the name of the respondent herein. He submitted that it is only after the petitioner was given time to clear the arrears of maintenance, the petitioner has cleared the arrears of maintenance.

5. I have considered the rival submissions advanced by the learned Counsel appearing for the parties. I have also perused the material on record. Insofar as the award of interim maintenance @ Rs.15,000/- per month is concerned, the learned trial Judge has considered the status of the parties as also income of the petitioner in paragraph-6 and accordingly has awarded maintenance @ Rs.15,000/- per month. Mr. Haridas submitted that the respondent is highly qualified having qualification B.Sc. M.B.A. The learned trial Judge has considered the decision of Madhya Pradesh High Court in the case of **Smt.Mamta Jaiswal v. Rajesh Jaiswal, 2000 (3) MPLJ 100**. After considering that decision in paragraph-11 as also the income of the petitioner which is Rs.70,000/- per month, the learned trial Judge directed the petitioner to pay maintenance @ Rs.15,000/- per month. I,

therefore, do not find that the learned trial Judge has committed any error in directing the petitioner to pay maintenance.

6. Insofar as the injunction issued by the learned trial Judge restrained the petitioner from creating third party interest is concerned, equally I do not find any ground to interfere with that direction. More so when he is directed to make appropriate provisions of accommodation of the respondent as per the impugned order.

7. Mr. Haridas submitted that if the Court is not inclined to interfere with the impugned order on the ground that the development agreement dated 15.10.2013 is not produced on record of the trial Court, he may be given liberty to apply for variation of clause-6 of the operative part of the impugned order. On instructions from the petitioner who is present in the Court, he states that within one week from today he will take out appropriate application and serve copy during this period on the other side. Mr. Sarwate assures that within two weeks from receipt of the application, the respondent will file reply. If such application is filed, the learned trial Judge is requested to dispose of said application within four weeks from completion of the pleadings. Parties assure that they will extend full cooperation for disposal of the main Petition. Liberty is reserved to the parties to apply

for disposal of the main Petition in a time bound manner. If such application is made, the learned trial Judge will pass appropriate order keeping in mind the fact that the petition is pending since 2015.

8. Subject to above directions, the Petition fails and the same is dismissed. Order accordingly.

(R. G. KETKAR, J.)

Deshmane (PS)