

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition (ST) NO. 22999 OF 2018
With
Civil Application No.1905 of 2018
In
Writ Petition (ST) NO. 22999 OF 2018

Mr. Mahesh Ganpat Chavan	...Petitioner
<i>Versus</i>	
Mrs. Manasi Mahesh Chavan	
And another	...Respondents
....	
Mr. Vijay P. Agale, Advocate for the Petitioner.	
....	

CORAM : R. G. KETKAR, J.

DATE : 19th SEPTEMBER, 2018

P.C.

1. Heard Mr.Vijay Agale, learned counsel for the petitioner, at length.
2. This Petition takes exception to the order dated 19.3.2018 passed below Exhibit-9 [Interim Application No.148/2013] in Petition No.E-134/2012. By that order, the learned trial Judge partly allowed the application filed by the respondent-wife and directed the petitioner-husband to pay interim maintenance @ Rs.6,000/- per month each to the respondent-wife and minor daughter (i.e. total Rs.6000 + 6000=Rs.12,000/- per month) from the date of application i.e. from 19th June, 2013 till disposal of the main Petition.

3. The matter was heard on 20.8.2018. Mr. Agale, on instructions, stated that within one week the petitioner will deposit 50% of the arrears of maintenance and remaining 50% within two weeks in this Court.

4. Mr. Agale submitted that in pursuance thereof, the petitioner has deposited 50% of arrears of maintenance amount in this Court within the stipulated period. He submitted that the petitioner is not in a position to deposit the remaining 50% amount in this Court and, therefore, proceeded to argue the matter on merits.

5. In support of this Petition, Mr. Agale invited my attention to paragraph-6 of the impugned order where the learned trial Judge observed that the respondent (petitioner herein) has not produced any document to show that he is repaying the loan every month. He has invited my attention to the bank statement of ICICI Bank from pages-45 to 51 to contend that these statements were produced in the trial Court to show that the petitioner is repaying the loan amount. However the learned trial Judge has simply observed in paragraph-6 that the respondent has not produced any document to show that he is repaying the loan every month. Mr. Agale submitted that the petitioner has obtained loan at the time of marriage of his brother and sister. However, this material was not placed before the trial Court. He, therefore, on instructions, seeks permission to withdraw this Petition with liberty to file Review Petition before the trial

Court along with documents to substantiate his case that the petitioner had taken loan for the purposes of marriages of his brother and sister. He assures that within four weeks from today, the petitioner will file petition seeking review of the impugned order dated 19.3.2018.

6. In view thereof, on the motion made by Mr. Agale, Petition is allowed to be withdrawn with liberty as prayed for and is disposed of as such. Grant of liberty shall not be construed as expression of merits of the case. All contentions of the parties on merits are expressly kept open. If the petitioner files Review Petition within four weeks from today, the learned trial Judge will decide the same on merits and will not dismiss the same on the ground that it is barred by limitation. The amount of 50% arrears of maintenance deposited by the petitioner in this Court shall be transmitted forthwith to the Family Court at Bandra, Mumbai. The respondent is at liberty to file application for withdrawal of that amount. If such an application for withdrawal of the amount is made, the learned trial Judge will pass appropriate order. In view of disposal of the main petition, Civil Application No.1905/2018 for modification of the order dated 20.8.2018 does not survive and the same also stands disposed of. Order accordingly.

(R. G. KETKAR, J.)

Deshmane (PS)

Digitally signed
by Pradip Kumar
Prakash Deshmane
Date: 2018.09.19
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