

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 12346 OF 2018

Shri. Uday S. Mangalarap .. Petitioner

vs.

Punam U. Mangalarap .. Respondent

Mr. K.S. Thorat for the Petitioner.

CORAM : M. S. SONAK, J.
DATE : 22 DECEMBER 2018.

P.C. :-

- 1] Heard Mr. Thorat for the petitioner.
- 2] The challenge in this petition is to the order dated 7th July 2018 made by the Family Court awarding maintenance of Rs.3000/- per month to the respondent -wife for payment of Rs.3000/- per month as House Rent.
- 3] Mr. Thorat, the learned counsel for the petitioner, submits that the respondent is staying in her father's house and her father is quite affluent to take care of her needs. He submits that the petitioner has taken a gold loan which he has to repay by monthly installment of Rs.18,500/- per month. He submits that the loan was taken for medical

expenses concerning the petitioner's father. He states that the petitioner has to maintain his aged mother and younger brother who is unemployed. For all these reasons, he submits that maintenance allowance and House Rent Allowances awarded to the respondent is excessive and exorbitant.

4] On perusing the material on record, it is seen that the petitioner has gross salary of Rs.33449 and net salary of Rs.30680/-. The loan, it appears that was taken to purchase a car. The petitioner, has no longer to maintain his father. There is no material produced on record to show that the petitioner's younger brother is unemployed. In any case, that cannot be a ground which will absolve the petitioner from maintaining his wife.

5] The alleged affluence of the wife's father is an irrelevant circumstance when determining maintenance.

6] Since the petitioner is earning a net salary of Rs.30,680/-, maintenance of Rs.3000/- per month and

additional Rs.3000/- by way of House Rent Allowance to hardly 20% of this net income. The learned counsel for the petitioner submits that under the D.V. Act as well the respondent has been awarded maintenance of Rs.3000/- he says that this aspect is also required to be considered. Even if maintenance awarded under the D.V. Act is added still, the total maintenance amount is less than 1/3rd of the petitioner's net income. Therefore, this cannot be called as unreasonable or exorbitant.

7] Besides, this is only an interim maintenance. The contentions now raised by the petitioner can always be considered once evidence is led at the stage of determination of final maintenance amount.

8] For all the aforesaid reasons, this petition is therefore, dismissed. There shall however, be no order as to costs. However, it is made clear that in determining the final maintenance amount, the Family Court need not be influenced by any observations in the impugned order or for that matter the present order. The final maintenance amount

will have to be determined on its own merits and in accordance with law.

(M. S. SONAK, J.)