

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

WRIT PETITION NO.4072 OF 2017

Mr.Bhavin Bhupendra Parekh ... Petitioner

Vs.

Mrs.Avni Bhavin Parekh ... Respondent

Mr.H.R.Bhende for the Petitioner.

Mr.P.B.Bhargude for the Respondent.

CORAM : SMT. BHARATI H.DANGRE, J.

DATE : MARCH 12, 2018.

P.C.:

1. Rule. Rule is made returnable forthwith. By consent, heard finally.

2. The present Writ Petition is filed by the Petitioner assailing the order dated 24th October 2016, by which the learned Judge Family Court directed to proceed with the cross-examination. An application was preferred on behalf of the applicant for setting aside (no-cross order dated 1st October 2016) passed against the Petitioner which was objected by the Respondent with a remark that “cost may be awarded for inconvenience caused”. Learned Judge of the Family Court was of the opinion that the matter was old and no bonafide reasons were cited warranting setting aside

the order, hence, the application came to be rejected. On perusal of the Petition, on the last date of hearing, I had specifically asked the learned counsel for the Petitioner as to whether he is in arrears of maintenance and it was informed that when the matter came up for hearing on the last day, the arrears came to be cleared and yesterday also some of the amount has been paid. According to the learned counsel for the Respondent, there are no arrears as on date and the entire amount of maintenance due has been paid. The learned counsel for the Respondent, however, makes a grievance that the Petitioner is in a habit of clearance of the arrears only when the matter appears before this Court or before the Family Court. The Petitioner should bear in mind that the whole purpose of the grant of maintenance amount is to enable the wife and children to have means of sustenance and if the amount is not paid when it is due, great difficulty is faced by the wife and the children. In such circumstances, they are left with no option, but to borrow the amount from some of the relatives. The purpose of maintenance is to give dignified life to the wife and children.

In such circumstances, with the aforesaid observations, the

Petitioner is directed to deposit the amount of maintenance due to the Respondent in her bank account before 10th day of every month.

As far as the impugned order is concerned, it is quashed and set aside. The Family Court is directed to afford an opportunity to the Petitioner to cross-examine subject to payment of costs of Rs.10,000/- to be deposited in the account of the wife within a period of two weeks from today. The Writ Petition is allowed and disposed off accordingly. Rule made absolute in the aforesaid terms.

(SMT. BHARATI H. DANGRE,J.)

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