

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13727 OF 2018

Pravin Vilas Pise

...Petitioner

Versus

Pratibha Pravin Pise

...Respondent

Mr. Surel S. Shah, I/b Mr. S. M. Karade, for the Petitioner.

CORAM: M. S. SONAK, J

DATED: 18th December, 2018

PC:-

1. Heard Mr. Shah for the petitioner.
2. The challenge in this petition is to the order dated 2nd May, 2018 by which the learned Trial Judge has directed the petitioner to pay to the respondent an amount of Rs.6,000/- per month by way of interim maintenance.
3. Mr. Shah submits that already there is an order made in proceedings under the Protection of Women from Domestic Violence Act, 2005 ("Domestic Violence Act", for short) requiring the petitioner to pay maintenance of Rs.8,000/- per month to the respondent. He submits that there are no details set out by the respondent as to why she requires maintenance of Rs.14,000/- per month when she is staying in a place like Kolhapur. He submits that the learned Trial Judge has mistakenly taken the salary of the petitioner at Rs.90,000/- per month. In fact, the same is Rs.70,000/- per month. He submits that the petitioner has responsibility to maintain his aged

parents as well, and there are several outgoings like taxes etc. He submits that considering all these aspects, the interim maintenance awarded by the impugned order is excessive and not reasonable. Mr. Shah also points out that the respondent is MBA graduate and therefore in a position to earn substantially. He submits that this aspect has not been considered by the learned Trial Judge. He, therefore, submits that the impugned order warrants interference.

4. After considering the aforesaid submissions and after perusal of material on record, I am satisfied that this is not fit case to warrant interference under Article 227 of the Constitution of India.

5. In the first place, the learned Trial Judge has taken cognizance of the fact that there is an order which requires the petitioner to pay maintenance of Rs.8,000/- to the respondent under Domestic Violence Act. The income of the petitioner, according to his own say is over Rs.70,000/- per month. There are some averments made by the respondent that the petitioner is earning additional income by renting out a flat.

6. Taking into consideration the lifestyle of the parties were used to, total maintenance of Rs.14,000/- per month cannot be said to be excessive or unreasonable. This amount is much lesser than even 1/3 of the admitted income of the petitioner. In determining interim compensation, some reasonable inferences from the material on record are permissible. The learned Trial Court cannot be said to have travelled beyond the bounds of reasonability as accepted in such matters.

7. There is no material placed on record with regard to any additional liabilities which the petitioner is required to bear.

Even assuming that the petitioner has to contribute to the maintenance of his parents, even then, the award of Rs.6,000/- per month in addition to maintenance of Rs.8,000/- per month under Domestic Violence Act, in the facts and circumstances of the present case, does not appear to be excessive.

8. Accordingly this petition is liable to be dismissed, and is hereby dismissed. No order as to costs.

9. It is however clarified that in determining the final maintenance amount, the learned Trial Court need not be influenced by any of the observations in the impugned order or in the present order. The issue of final maintenance shall be decided on its own merits and in accordance with the evidence produced by the parties before the learned Trial Court.

[M. S. SONAK J.]