

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13751 OF 2018

Sumit Vijay Kumar Jain

...Petitioner

vs.

Shraddha Gupta Jain

...Respondent

Mrs. Manjula Rao a/w. Ms. Sushmita S., for the Petitioner.
Ms. Shraddha Jain, the Respondent present in person.

CORAM : M. S. SONAK, J.

DATE : DECEMBER 05, 2018

P.C.

. Heard Mrs. Rao, learned counsel for the Petitioner and
Ms. Shraddha Jain, the Respondent who appears in person.

2. The challenge in this Petition is to the orders dated 13th
October, 2017 and 20th October, 2018 made by the Family Court,
the Petitioner to pay maintenance of Rs. 40,000/- p.m. to the
minor daughter Aahana.

3. Mrs. Rao, learned counsel for the Peti points out that
Aahana's mother the Respondent Shraddha Gupta is a Vice
President at the Axis Bank earning substantial amount. She

submits that the Petitioner is already taking care of educational needs of Aahana and also maintaining the house in which the parties personally resides. She points out that the Respondent is deliberately suppressing the details of her income and exaggerating claims. She points out that this Court has in fact accepted the position that the Respondent is inflating claims in relation to Aahana's needs. She refers to the judgment and order dated 13th May, 2018 made in Writ Petition 1215 of 2018 and connected matters. She points out that the orders made by this Court were in fact challenged by the Respondent before the Apex Court. She submits that S.L.P's have been dismissed and the house was ordered to be partitioned. She submits that all these are sufficient ground to interfere with the impugned orders and to reduce the erroneous amount granted to Aahana.

4. Without prejudice Mrs. Rao submits that the Petitioner has been investing amount of Rs. 13,000/- p.m in the name of Aahana and the Petitioner may be continue to make such investments to the extent of Rs. 13,000/- rather than required the Petitioner to pay the maintenance of Rs. 40,000/- p.m to Aahana. She submits that this arrangement will in fact be in the interest of

Aahana, as otherwise it is likely with the amounts are twittered away by the Respondent.

5. Mrs. Rao also submits that the learned Family Court came to the conclusion that 50 % of the expenses for maintenance of Aahana may borne by the Petitioner. She submits that the Respondent has submitted a chart indicating the expenses for maintenance of Aahana. The particulars in this chart were quite inflated. In any case, 50 % of which expenses does not come to Rs. 40,000/- p.m. therefore the Family Court clearly erred in dismissing the Review Petition instituted by the Petitioner.

6. Having considered the aforesaid submissions and perused the material on record, in my judgment, this is not a fit case to warrant any interference with the impugned orders.

7. In the first place, the Family Court has taken into consideration the income of both the parents and as also adverted to the relevant parameters in matters of grant of interim compensation. There are particulars provided and it is only upon consideration the educational and other needs of Aahana that the

quantum of interim maintenance has been arrived at. The arguments raised in the Review Petition has also been appropriately dealt with by the learned Family Court. Though, it is true that there is reference to 50 % in the impugned order, the Family Court, has ultimately determined that lumpsum of Rs. 40,000/- p.m. must be paid by way of maintenance. Such an award has been made after taking into consideration all the circumstances, now adverted to by Mrs. Rao. Accordingly, there is no unreasonableness in the determination made so as to warrant interference in the impugned order under Article 227 of the Constitution of India.

8. Secondly, it is necessary to note that the impugned order dated 13th October, 2017 had in fact been challenged by the Respondent Shraddha in the context of such challenge, this Court has clearly held that the Family Court has taken balance view of the earning of the husband as well as of the wife and most importantly the needs of the child. At this stage when wife had challenged the award of maintenance of Rs. 40,000/- p.m. to the child Aahana on the ground that maintenance amount was totally not adequate, it appears that it was the contention of the Petitioner

that this amount was quite sufficient and no case was made out in enhancement of such amount. This is yet another consideration in not entertaining the present Petition.

9. In so far as the offer for the investment of Rs. 13,000/- is concerned, the same could have been acceded to, provided the Respondent has consented to the same. However, the Respondent submits that there are several expenses in relation to the maintenance of Aahan. She submits that even she is bearing the expenses to the extent of 50 %. According to her, the income of the Petitioner is almost 4 times that of her income. For all these reasons the Respondent Shraddha states that she is not agreeable to the arrangement for the investment.

10. In the facts of the present case, the impugned order cannot be modified as there is no legal infirmity or jurisdictional error in making of the same.

11. For all the aforesaid reasons, this Petition is dismissed.

12. There shall be no order as to the costs.

13. At this stage, Mrs. Manjula Rao, learned counsel for the Petitioner point out that the coercive action has commenced against the Petitioner for failure to deposit of maintenance. She points out that if the investments already been made by the Petitioner were taken into consideration there might have been no arrears. She therefore seeks for some time to deposit arrears and press that in the meanwhile the coercive action may be postponed. The request is absolutely reasonable and it is required to be granted.

14. Accordingly, the statement of the Petitioner that he will deposit the arrears latest by 12th December, 2018 is accepted. Until 12th December, 2018 no coercive action shall be taken against the Petitioner.

15. All concerned to act on the basis of authenticated copy of this order.

(M. S. SONAK, J.)