

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.1188 OF 2019

BHAGINATH BABASAHEB ASANE
VERSUS
MONALI ALIAS GEETA BHAGINATH ASANE

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Advocate for the Petitioner : Shri Ubale Mahesh B.
Advocate for the Respondent : Shri Gandhi Amol S.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 04th December, 2019

Per Court:

1 The petitioner/ husband is aggrieved by the order dated 03.10.2018 passed by the Trial Court by which, the application exhibit 10 filed by the respondent/ wife seeking maintenance under Section 24 of the Hindu Marriage Act, 1955 in Hindu Marriage Petition No.8/2018, has been partly allowed and the petitioner is directed to pay Rs.3500/- per month to the respondent/ wife from the date of the application, which is 06.02.2018.

2 The grievance of the petitioner/ husband is that in another proceeding under the Protection of Women from Domestic Violence Act, 2005, the concerned Court had directed the petitioner to pay interim maintenance at the rate of Rs.4000/- per month. Consequentially, the

petitioner is required to pay Rs.7500/- per month. He is a poor agriculturist. Though it was alleged that he has a tractor and ten milking cows, the Trial Court has recorded that there is no evidence produced by the wife to support this contention. The Trial Court has also recorded that the petitioner harvests wheat and onion crops from the agricultural lands.

3 The learned advocate for the respondent/ wife submits that though the petitioner/ husband appears to be an agriculturist, he is a prospering agriculturist. As a wife, she is aware that he has a tractor and eight milking cows. He, therefore, submits that it is not exorbitant for the husband to pay a total sum of Rs.7500/- per month as interim maintenance. He prays that this petition be dismissed with costs.

4 I find that though the wife has to support herself and take care of a three years old girl child, she is presently residing with her parents at Yeola in Nashik district. In this backdrop, it has to be assessed as to whether, the petitioner, who is a farmer, can be said to afford the payment of Rs.7500/- as monthly maintenance. The effect of both orders passed in two proceedings is from February, 2018 in the present case and August, 2018 in the DV case. The petitioner is said to be in arrears.

5 In view of the above, this Writ Petition is partly allowed by modifying the impugned order dated 03.10.2018 on the following conditions :-

(a) The entire arrears as per the two orders passed by the two

Courts for the total amount of Rs.7500/- as monthly interim maintenance upto November, 2019, would be cleared on or before 31.12.2019.

- (b) On the above condition, by maintaining Rs.4000/- granted in the DV case and reducing the amount in the present case to Rs.1500/-, the total amount of interim maintenance of Rs.5500/- per month shall be payable from 01.12.2019.
- (c) The petitioner/ husband agrees not to press the proceeding filed for challenging the grant of interim maintenance at the rate of Rs.4000/- in the DV case and the competent Court shall, therefore, dispose off Criminal Appeal No.52/2018 pending before the learned District and Sessions Judge, Niphad.
- (d) The petitioner shall regularly pay the total interim maintenance of Rs.5500/- per month under the two proceedings, without fail.