

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

**CIVIL APPLICATION (STAMP) NO.12991 OF 2019
IN
WRIT PETITION NO.10274 OF 2018**

ASHA @KANTA DEORAM NABGE
VERSUS
DEORAM RAMCHANDRA NABGE

WITH
WRIT PETITION NO.10274 OF 2018

DEORAM RAMCHANDRA NABGE
VERSUS
ASHA @ KANTA DEORAM NABGE

...

Advocate for the Petitioner in WP and Respondent in CA : Shri Kale Patil
Dnyaneshwar R.

Advocate for the Respondent in WP and Applicant in CA : Shri Gandhi
Amol S.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 11th April, 2019

Per Court:

1 I have heard the learned Advocates for the original Petitioner and the original Respondent, who is the Applicant in Civil Application (stamp) No.12991/2019.

2 After hearing the Petitioner, this Court (Coram : N.M.Jamdar, J.) had passed an order on 17.12.2018. It was recorded that Rs.70,000/-

had been deposited by the Petitioner/ husband.

3 In paragraph 4 of the order dated 17.12.2018, this court had directed as under :-

"4. The Registry will immediately transfer the amount deposited by the petitioner, to the Court of Adhoc District Judge 3, Ahmednagar, in Regular Civil Appeal No.214/2011. Upon transfer, the respondent shall be entitled to withdraw this amount subject to further orders to be passed in this petition."

4 By the Civil Application, the learned advocate for the wife points out an order dated 19.03.2019 passed by the first Appellate Court on an application filed by the wife in RCA No.214/2011 praying for withdrawal of the amount. The first Appellate Court has rejected the said application by concluding as under :-

"Supdt. Cash and Finance has attached order of Hon'ble High Court in W.P. No.10274/2018. As per order of Hon'ble High Court respondent shall be entitled to withdraw the amount subject to further order in the writ petition. No such further orders are received. Hence application is filed."

5 The learned Advocate for the Petitioner/ husband submits that the writ petition may be listed for admission hearing and the wife may be restrained from withdrawing the said amount.

6 I find that the said amount deposited by the Petitioner is towards the maintenance amount to be paid to the wife and the Petitioner

is in arrears. He was, therefore, directed to deposit Rs.70,000/-. If this amount is not allowed to be withdrawn by the wife, it would be difficult for her to maintain herself without any funds for meeting her day to day expenses and sustenance.

7 I am quite surprised by the interpretation of the learned Judge of the Appellate Court, of the order passed by this Court on 17.12.2018. When it was specifically ordered that the amount shall be withdrawn by the wife subject to further orders in the writ petition, it obviously meant that though the wife would withdraw the money, it would be subject to any further orders that this Court may pass in the writ petition and that she would be governed by such orders. It is quite strange that the learned Judge of the Appellate Court interprets the said direction to mean that the amount cannot be withdrawn until this Court once again permits the wife to withdraw the said amount. I, therefore, record my displeasure as regards the order passed by the learned Judge (Smt.K.K.Patil, Adhoc District Judge-3, Ahmednagar).

8 In view of the above, this Civil Application is allowed. The Applicant/ wife is permitted to withdraw the amount of Rs.70,000/- (Rupees Seventy Thousand) from the first Appellate Court. Needless to state, the said withdrawal would be subject to any further orders that this Court may pass after hearing the parties.

9 The learned Registrar (Judicial) of this Court shall place the

copy of this order before the learned Adhoc District Judge-3, Ahmednagar and simultaneously place the copy of this order before the learned Principal District Judge, Ahmednagar.

10 List the writ petition on 12.06.2019 in the urgent admissions category.

kps

(RAVINDRA V. GHUGE, J.)