

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

WRIT PETITION NO.5609 OF 2018

SHRIRAM BARKU MAHAJAN
VERSUS
SHUBHANGI RAKESH MAHAJAN AND OTHERS

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Advocate for the Petitioner : Shri Gujarathi Yatish G..
Advocate for Respondents 1 to 3 : Shri Brahme Shailesh P..

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 10th January, 2019

Per Court:

1 I have heard the learned Advocates for the respective sides. The Petitioner is present in the Court. The arrears of maintenance, as directed by the Trial Court vide the impugned order dated 27.11.2015, are about Rs.3,80,000/- as on date.

2 The learned Advocate for Respondent Nos.1 to 3/ original Plaintiffs submits that the Petitioner has about 14 ancestral properties and is also a pensioner. The husband of Plaintiff No.1 has passed away untimely in unfortunate circumstances. The widow and two growing children are practically disowned by the Petitioner/ grandfather.

3 The learned Advocate for the Petitioner submits that sufficient funds were given to his son. The house property at Goa is also a result of such funds. The said property is now being occupied by the widow and

her two children. It is also contended that the widow is presently in employment in some travel agency at Calangute Circle, Goa.

4 I have called upon the Petitioner, who is present in the Court, to make a statement as to whether, he would clear off the arrears as a condition precedent for proceeding with the suit within a time frame. Though the Petitioner has initially shown reluctance, it is finally stated that an amount of Rs.1,50,000/- would be deposited within one month from today. I am directing him to deposit Rs.1,00,000/- within one month thereafter, without prejudice to the rights of the Petitioner in the pending suit.

5 The learned Advocate for the original Plaintiffs has opposed the said proposal contending that the entire amount of Rs.3,80,000/- needs to be deposited and further monthly payments are also required to be made.

6 It is informed that the suit is at the stage of cross examination of the Plaintiffs. I, therefore, find that ends of justice would be met by expediting the hearing of the suit.

7 In view of the above, this Writ Petition is disposed of with the following directions :-

(a) An amount of Rs.1,50,000/- (Rupees One Lac Fifty Thousand) would be deposited by the Petitioner before the Trial Court within THIRTY (30) DAYS from today.

(b) An amount of Rs.1,00,000/- (Rupees One Lac) would be deposited by the Petitioner in the Trial Court within THIRTY (30) DAYS thereafter.

(c) Any default would result in striking off the defence of the Petitioner in the pending suit.

(d) The Trial Court shall decide RCS No.151/2015 expeditiously and in any case, on or before 30.06.2019.

(e) If the matter is not decided within the above time frame, the Trial Court shall draw an impression as to whether, any of the litigating sides is responsible for causing the delay. If Defendant No.1 is held to have caused the delay, the payment of monthly maintenance shall commence as per the impugned order w.e.f. 01.07.2019 until the suit is decided within the extended period.

(f) In so far as the balance amount is concerned, the Trial Court would consider the same while delivering it's final verdict.

(g) The Plaintiff widow is permitted to withdraw the amount of Rs.2,50,000/- (Rupees Two Lac Fifty Thousand) by filing an undertaking affidavit that if she or her children are held to be disentitled to receive the said amount, she shall re-deposit the amount in the Trial Court within eight weeks, subject to further litigation, if any.