

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6124 OF 2016

MAYURI NILESH KAPILE
VERSUS
NILESH SUDHAKARRAO KAPILE

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Advocate for Petitioner : Shri Surve Hemant
Advocate for Respondent : Shri Padalkar Harshad H.

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CORAM : RAVINDRA V. GHUGE, J.

Dated: February 06, 2019

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PER COURT :-

1. This matter was heard for a considerable time on 5.2.2019 and again today.
2. The respondent / husband is present in the Court.
3. Learned counsel for the husband submits that the impugned order dated 18.5.2016 has been subjected to a review and the monthly interim maintenance has been enhanced to Rs.3,800/-.
4. The record reveals that the annual salary package of the husband is about Rs.15,00,000/-, inclusive of perquisites. Learned Advocate for the wife submits that the total arrears, excluding the order of the Family Court increasing the arrears by Rs.1,800/- per month, are Rs.5,34,400/- till January, 2019. He places reliance upon

the judgment of the Honourable Apex Court in the matter of Kalyan Dey Chowdhury Vs. Rita Dey Chowdhury Nee Nandy - Civil Appeal No. 5369 of 2017, dated 19.4.2017, by which, it is held that the maintenance to the wife, in order to maintain her dignity as a human being and the wife of an accomplished husband, should be 25% of his monthly salary. It is further ruled that the dignity of the wife is co-related with the achievements and the dignity of the husband and hence such a wife would be entitled for maintenance, which would be commensurate to the monthly earnings of her husband.

5. Learned Advocate for the husband submits that, firstly, about eight months were consumed in attempting to resolve the dispute between the parties and no maintenance should be granted for the said period. Secondly, that three months time be granted for depositing the arrears.

6. Learned counsel for the petitioner / wife submits that the respondent engaged her in discussion for eight months and it was revealed that he has no intention of settling the matter. The wife cannot survive without maintenance for this period of eight months, merely because she was involved in negotiations with the husband. He submits that an amount of Rs.3,00,000/- be deposited by the

husband in this Court on/or before 28.2.2019 and the remaining amount of Rs.2,34,400/- be deposited in this Court by 15.3.2019.

7. The learned Advocate for the husband submits, on instructions, that such deposits would be made.

8. In view of the above, the statement of the respondent / husband is recorded that an amount of Rs.3,00,000/- would be deposited on/or before 28.2.2019 in this Court and the remaining amount of Rs.2,34,400/- would be deposited in this Court on/or before 15.3.2019. The respondent / wife would be at liberty to withdraw the said amounts without conditions.

9. Since the impugned order has been subjected to a revision and the maintenance is enhanced from Rs.2,000/- to Rs.3,800/- per month, this petition is disposed off, with the following observations:-

(A) The statement made by the respondent / husband is recorded as a statement made to the Court with regard to the depositing of the amounts.

(B) The petitioner / wife would be at liberty to withdraw the said amounts without any conditions.

(C) The proceedings in PWDVA No. 151 of 2015 pending before the competent Court at Aurangabad shall be

expedited and the concerned Court would endeavour to decide the said proceedings on/or before 31.12.2019.

(D) The proceedings in Petition No. C-06 of 2015 shall be decided by the concerned Court expeditiously keeping in view the pendency before the said Court.

(E) Similarly the proceedings in Petition No. A-78 of 2015 shall be decided by the competent Court expeditiously, in the event, there is no other legal impediment.

(F) In so far as application Exhibit 16, dated 26.11.2015, filed by the petitioner / wife before the Family Court in Petition No. C-06 of 2015 is concerned, the trial Court shall decide the said application as expeditiously as possible and in any case on/or before 31.5.2019.

10. Needless to state, if the respondent / husband fails to deposit the amounts as noted above, the petitioner / wife would be at liberty to file a Civil Application in this disposed off petition for further orders.

(RAVINDRA V. GHUGE, J.)

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