

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Criminal Writ Petition NO. 92 OF 2019

Sanjay Shashikant Arjun

...Petitioner

Versus

Santoshi alias Nilam Sanjay Arjun (after marriage)

Santoshi @ Nilam Pandurang Waghmode (before marriage)

and others.

...Respondents

....

Mr. Deepak More i/b. Nitesh J. Mohite, Advocate for the Petitioner.

Mr. Ritesh Thobde, Advocate for Respondent No.1.

...

CORAM : R. G. KETKAR, J.

DATE : 30th APRIL, 2019

P.C.

1. Heard Mr. Deepak More, learned counsel for the petitioner and Mr. Ritesh Thobde, learned counsel for respondent No.1, at length.

2. This Petition takes exception to the order dated 6.12.2018 passed by the learned Judge, Family Court, Solapur below Exhibit-5 in E. Petition No.86/2018. By that order, the learned Judge partly allowed Exhibit-5 and directed the petitioner to pay an amount of Rs.5,000/- per month to each of the applicants (total Rs.15,000/- per month) from the date of the application towards interim maintenance till final disposal of the main petition. The petitioner was directed to deposit an amount of interim compensation till 15th day of every month in designated account of applicant No.1 or in the Court.

3. The petition was heard on 11.1.2019. On instructions, Mr. More assured that on or before 16.1.2019 the petitioner will deposit entire arrears of maintenance as per the impugned order in this Court. In view thereof, hearing of the petition was deferred till 31.1.2019. Subject to the petitioner depositing arrears of maintenance as per the impugned order on or before 16.1.2019 in this Court, ad-interim order in terms of prayer clause (b) was granted. It was made clear that if the amount is not deposited in this Court within during the stipulated period, ad-interim order shall stand vacated without further reference to the Court.

4. Office remark shows that the petitioner has deposited Rs.55,000/- in this Court on 21.1.2019.

5. The petition was thereafter heard on 12.4.2019 when the statement made on behalf of the petitioner that he has complied the order dated 11.1.2019 by depositing entire arrears upto 31.1.2019 was recorded. The assurance of the petitioner that he will deposit arrears of maintenance for the months of February and March, 2019 was also recorded. The petitioner has also deposited maintenance of Rs.45,000/- on 16.4.2019.

6. Mr More states that the petitioner is present in the Court today. He has tendered a photo-copy of his Identity Card issued by the Joint Commissioner of Police (Administration), Mumbai, which is taken

on record and marked 'X' for identification. Upon taking instructions from him, Mr. More submits that the petitioner will not press this Petition and will file Review Petition in the trial Court seeking review of the impugned order. He states that on or before 10.6.2019, the petitioner file such Review Petition. He submits that if the review petition is filed on or before 10.6.2019, the learned trial Judge may be directed to decide the same on its own merits and in accordance with law uninfluenced by the withdrawal of present Petition. The learned trial Judge may be directed not to dismiss the Review Petition on the ground of delay.

7. Mr. Thobde has no objection for the same. He submits that the respondents may be permitted to withdraw the amount deposited by the petitioner in this Court. He further submits that in case the Court is inclined to grant such liberty, all contentions of the respondents may be kept open.

8. In view thereof, on the motion made by Mr. More, the petition is allowed to be withdrawn with liberty as prayed for. If the Review Petition is filed on or before 10.6.2019, the same shall not be dismissed on the ground of limitation. The learned trial Judge will decide the Review Petition on its own merits and in accordance with law uninfluenced by the withdrawal of this petition. All contentions of the parties on merits are expressly kept open. Respondent No.1 is

permitted to withdraw the amount deposited by the petitioner in this Court, unconditionally.

9. The details of bank account of respondent No.1 are as under:

Name : Mrs. Santoshi Sanjay Arjun
Bank & Branch : State Bank of India,
Industrial Ara, Solapur Branch
Branch Code : 3145
A/c. No. : 38042899109
Type of A/c. : Savings Account
IFSC Code : SBIN0003145
MICR Number : 413002005

10. Respondent No.1 shall make application before the Assistant Registrar, Criminal Department of this Court within one week from today giving aforesaid details. The Assistant Registrar, Criminal Department shall transmit the amount in the aforesaid bank account of the applicant within one week from receipt of the application giving requisite details.

11. All concerned parties, including the trial Court as well as Assistant Registrar (Criminal Department) of this Court, to act upon the authenticated copy of this order. Order accordingly.

(R. G. KETKAR, J.)

Deshmane (PS)