

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 1996 OF 2019

Ali Abbas Daruwala

...Petitioner

Versus

Shehnaz Ali Daruwala
and another

...Respondents

....

Mr.S.G. Kudle, Advocate for the Petitioner.

Ms. T.F. Irani, Advocate for Respondent No.1.

....

CORAM : R. G. KETKAR, J.

DATE : 04th APRIL, 2019

P.C.

1. Heard Mr. S.G. Kudle, learned counsel for the petitioner and Ms.T.F. Irani, learned counsel for respondent No.1, at length.

2. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the judgment and order dated 22.6.2017 passed by the learned Judge, Family Court No.2, Mumbai below Exhibit-7 in Petition No.A-1097/2015. By that order, the learned trial Judge partly allowed the application made by respondent No.1 in the following terms :

- “ 1. The Application at Ex.7 is hereby allowed as under:
2. The respondent (petitioner herein) shall pay an amount of Rs.25,000/- p.m. to the petitioner (respondent No.1 herein) and Rs.20,000/- p.m. each for both children (in all Rs.65,000/- p.m.) towards their interim maintenance from the date of filing of the application i.e.

15/04/2015 till the date of this order excluding house rent of Rs.40,000/-.

3. The respondent (petitioner herein) shall pay an amount of Rs.30,000/- p.m. to the petitioner (respondent No.1 herein) and Rs.25,000/- p.m. each for both the children (in all Rs.80,000/- p.m.) towards their interim maintenance from the date of order till disposal of the main petition excluding house rent of Rs.40,000/-.
4. The petitioner (respondent No.1 herein) shall file a copy of leave and license agreement in the past as well as future.
5. The respondent (petitioner herein) shall pay rent of the house to the petitioner (respondent No.1 herein) @ Rs.40,000/- p.m. for past period and he is at liberty to pay future rent directly to the landlord.
6. The respondent (petitioner herein) shall also pay security deposit as mentioned in the leave and license agreement. The petitioner (respondent No.1 herein) is directed to return that amount on termination of the agreement.
7. In any case before taking any house on leave and license basis, the petitioner (respondent No.1 herein) shall take care that the security deposit shall not be more than Rs.1,50,000/- and the license fee/rent shall not be more than Rs.40,000/- p.m.
8. The respondent (petitioner herein) shall also pay Rs.10,000/- in lumpsum to the petitioner (respondent No.1 herein) towards litigation expenses.”

3. Ms. Irani raised preliminary objection to the maintainability of the petition on the ground that same order was challenged by the petitioner by filing Writ Petition No.114/2018. After hearing the parties, by order dated 4.5.2018 this Court dismissed the petition. Mr. Kudle fairly stated that the petitioner had instituted petition seeking review of that order and the same was withdrawn. On instructions, he

further states that the petitioner is not pressing prayer clause (D) of the petition.

4. In view thereof, as the challenge to the impugned order is already turned down by this Court on 4.5.2018 in Writ Petition No.114/2018, it is not possible to reexamine the correctness of impugned order. The petitioner is at liberty to adopt appropriate proceedings challenging the High Court's order dated 4.5.2018 by approaching appropriate forum, if so advised. Subject to this, the petition fails and the same is dismissed. Order accordingly.

(R. G. KETKAR, J.)

Deshmane (PS)