

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
CIVIL APPLICATION NO.836 OF 2019
IN
WRIT PETITION NO.7287 OF 2018

Anita Rakesh Chugh] Applicant

IN THE MATTER BETWEEN:

Rakesh Naraindas Chugh] Petitioner

Vs.

Anita Rakesh Chugh] Respondent

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Mr. Anil Pratap, learned Counsel for the Applicant.

Mr. Kishorekumar S. Shetty, for the Respondent.

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CORAM : R.G. KETKAR, J.

DATE : 22ND APRIL, 2019.

P.C.

Not on board. At the request of Mr. Pratap, taken up in the production board.

2. Heard Mr. Pratap, learned Counsel for the applicant and Mr. Shetty, learned Counsel for the respondent.

3. By this application, applicant/wife has prayed for permission to withdraw Rs.2,55,000/- deposited by the opponent towards arrears of maintenance.

4. By order dated 23rd November, 2017 below Exhibit 13, the learned trial Judge directed the opponent to pay Rs.10,000/- per month each towards maintenance of both the children from the date of filing of the application i.e from 8th June, 2016 till disposal of the main Petition. The opponent was also directed to pay Rs.10,000/- in lumpsum to the applicant towards litigation expenses.

5. Aggrieved by this order, the opponent instituted W.P. No.7287 of 2018. By order dated 13th August, 2018, this Court directed the opponent to deposit 50% arrears of amount in this Court on or before 18th September, 2018 and made it clear that only thereafter the Writ Petition will be taken for hearing on merit. It was further made clear that on failure, the Petition will stand dismissed automatically without further reference of the Court.

6. It is common ground between the parties that opponent has deposited Rs.2.55 Lakhs in this Court which represents 50% of arrears of maintenance. It is also not in dispute that the said order was modified by this Court on 19th December, 2018 in the following terms;

- “(a) Quantum of amount of maintenance is not interfered with.
- (b) However, the petitioner shall pay maintenance of Rs.5,000/- each to the children and invest the balance of Rs.5,000/- per child in Recurring Deposit in the names of the children. Such deposits shall abide by final Orders that shall be made by the Family Court in the Petition. Under no circumstances, amount shall be withdrawn from such invested amount.
- (c) Save and except modified as aforesaid, impugned order shall operate in full force”.

7. It is not in dispute that opponent has not paid maintenance after depositing Rs.2,55/- lacs in this Court. As amount of Rs.2,55/- lakhs represents 50% of interim maintenance, I find that the request made by the applicant for withdrawal of the amount is reasonable. Even if, I accept that daughter is residing with him, opponent is required to pay maintenance @ Rs.5,000/- per month to the son who is in custody of the applicant/mother. Apart from that, opponent has also not deposited Rs.5000/- per child in the Recurring Deposit as per the order dated 19th December, 2018.

8. Mr. Shetty states that the opponent is present in the Court. He has tendered photo copy of his "Aadhar Card" which is taken on record and marked 'A' for identification. Upon taking instructions from him, he assures that on or before 31st July, 2019, he will comply paragraph 14 (b) of the order dated 19th December, 2018 by investing Rs.10,000/- (Rs.5,000/- per child) in the Recurring Deposit in the names of the children. Statements made on instructions are recorded. The opponent also assures that he will go on paying maintenance to son from March, 2019 onwards on or before 10th day of each succeeding month/s.

9. C.A. is allowed in terms of prayer clause (a) with no order as to costs.

[R.G. KETKAR, J.]