

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8584 OF 2015

Milind Shyam Sinnarkar ...Petitioner

Versus

Sou. Jyoti Milind Sinnarkar ...Respondent

Mr. Ajit M. Savagave, for the Petitioner.

CORAM: N. J. JAMADAR, J.

DATED: 2nd AUGUST, 2019

Oral Order :-

1. Heard Mr. Savagave, the learned Counsel for the petitioner.

2. The challenge in this petition is to an order passed by learned Judge, Family Court, Thane, on an application (Exhibit 27) for interim maintenance under Section 24 of the Hindu Marriage Act, 1955 ("the Act of 1955", for short), on 10th August, 2015, whereby the application of the respondent came to be partly allowed and the petitioner was directed to pay Rs.5,000/- per month for the respondent and Rs.3000/- per month for the minor daughter Anisha, from the date of the said application. The petitioner was further directed to pay Rs.10,000/- towards the litigation expenses to the respondent.

3. The petitioner has preferred a petition for divorce against the respondent – wife under the provisions of Section 13(1)(ia) of the Act of 1955. The respondent – wife preferred an application, in the said Marriage Petition No.A-188 of 2015, under Section 24 of the Act of 1955 for maintenance *pendent lite and* expenses of the proceedings. The respondent asserted that the petitioner was working as Personal Assistant with a Municipal Councillor since 15 to 17 years and was earning Rs.35,000/- to Rs.40,000/- per month, approximately. The Respondent averred that for meeting the expenses of necessities of life, interim maintenance be granted to her and daughter Anisha at the rate of Rs.15,000/- and Rs.18,000/- per month, respectively.

4. The petitioner resisted the application. It was contended that the petitioner was working as a collection boy with Destiny Cable Network, Kalva, and was drawing a salary of Rs.6,000/- per month. The allegations about high income and standard of living were stated to be false. It was further asserted that the respondent was working and thus had her own independent income.

5. The learned Judge, Family Court, was persuaded to allow the application. The learned Judge was not prepared to

place reliance upon the letter issued by Destiny Cable Network to the effect that the petitioner was working with them as a collection boy and drew salary of Rs.6,000/- per month. The learned Judge further held that if the petitioner was drawing salary of Rs.6,000/- per month, he would not have shown readiness to pay maintenance at the rate of Rs.3,000/- per month to the respondent. After assigning reasons, the learned Judge came to the conclusion that the said document was filed only to show the meagre salary.

6. The learned Counsel for the petitioner urged that the learned Judge failed to properly appreciate the material on record. The fact that there is no material to indicate that the petitioner is working as a Private Assistant with a Municipal Councillor and gets income of Rs.35,000/- to Rs.40,000/- per month, was completely lost sight of. In the backdrop of the facts of the case, the award of maintenance at the rate of Rs.8,000/- per month was stated to be on the higher side and onerous for the petitioner.

7. At an interim stage, the learned Judge, Family Court, has exercised the discretion to grant maintenance at the rate of Rs.5,000/- per month to the respondent – wife and Rs.3,000/- per month to the daughter – Anisha. It is true

that, there was no clinching material to demonstrate the income of the petitioner. However, having regard to the inflationary income of the economy, the award of maintenance at the rate of Rs.5,000/- and Rs.3,000/- to meet the basic necessities of life, cannot be stated to be unreasonable. The said amount is the bare minimum for the respondent to keep her body and soul together. Thus, in exercise of extra-ordinary jurisdiction, no interference in the discretionary order to grant maintenance at a reasonable rate to wife and daughter of the petitioner, is warranted.

8. The petition, thus, stands rejected.

9. The learned Judge, Family Court, shall make an endeavour to dispose of the petition as expeditiously as possible.

[N. J. JAMADAR, J.]