

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO.281 OF 2019

Vinayak Ashok Walankar	]	Petitioner
Vs.		
Somakshi Vinayak Walankar	]	Respondent

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Mr. S.M. Kelkar i/b Mr. Mahendra M. Agavekar, learned Counsel for the Petitioner.

Mr. Ashok B. Tajane, learned Counsel for the Respondent.

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CORAM : R.G. KETKAR, J.

DATE : 2nd APRIL, 2019.

P.C.

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

2. Heard Mr. Kelkar, learned Counsel for the petitioner and Mr. Tajane, learned Counsel for the respondent.

3. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the order dated 24th October, 2018 passed by the learned Judge, Family Court No.5, Pune below Exhibit 20 in P.A. No.105 of 2017. By that order, the learned trial Judge partly allowed the application made by the respondent-wife under section 24 of the Hindu Marriage Act, 1955 (for short 'Act') and directed the petitioner to pay interim alimony to the respondent-wife and her son @ Rs.8250/- per month (Rs. 5,000/- per month for the respondent-wife and Rs.3250/- per month for the son till he attains

majority) from the date of the application inclusive of travelling and education expenses.

4. In support of this petition, Mr. Kelkar strenuously contended that the petitioner and the respondent are highly qualified teachers. The petitioner is M.A. B.ED in Sanskrit and the respondent is M.A. M.ED in English. The petitioner is propagating Sanskrit throughout India without charging any fees. He is removed from the job. It is not possible for him to pay maintenance @ Rs.5000/- per month to the respondent. The respondent is also gainfully employed. On instructions, he states that the petitioner is not challenging the maintenance awarded to the son @ Rs.3250/-. In other words, the challenge in the present Petition is restricted to the maintenance awarded to the wife @ Rs.5000/- per month. He, therefore, submitted that maintenance awarded to the wife may be set aside.

5. On the other hand, Mr. Tajane supported the impugned order. He submitted that after considering the material on record and the fact that earlier the petitioner was working as a teacher, the learned trial Judge was of the view that his earnings are reasonably assumed to be Rs.25,000/- and on that basis, the impugned order is passed. He, therefore, submitted that no case is made out for interfering with the impugned order.

6. I have considered the rival submissions advanced by learned Counsel for the parties. I have also perused the material on record. For the reasons recorded in paragraphs 11 to 13 in the impugned order, I do not find that any case is made out for interfering with the impugned order. Even otherwise, award of maintenance @ Rs.5,000/- per month cannot be said to be exorbitant, oppressive or punitive. In my opinion, maintenance awarded to the respondent/wife is modest. Hence, no case is made out for invocation of

powers under Article 227 of the Constitution of India. The Petition fails and the same is dismissed. Liberty is reserved to the parties to apply for disposal of the main Petition in a time bound manner. If such application is made, the learned trial Judge will pass an appropriate order on that application. Order accordingly.

[R.G. KETKAR, J.]