

IN THE PARSI CHIEF MATRIMONIAL COURT AT BOMBAY***ORDINARY ORIGINAL CIVIL JURISDICTION*****NOTICE OF MOTION NO. 3 OF 2019****IN****PARSI SUIT NO. 2 OF 2018****ALONGWITH****NOTICE OF MOTION NO. 1 OF 2018****IN****PARSI SUIT NO. 2 OF 2018****Mrs.Armin P.Ghadiali****..... Applicant****IN THE MATTER BETWEEN****Mrs.Armin P.Ghadiali****..... Plaintiff****VERSUS****Farokh Ghadiali****..... Defendant**

Mrs. Taubon F.Irani, a/w. Ms.Disha Shetty for the Applicant/Plaintiff.

None for the Defendant.

CORAM : R.D. DHANUKA, J.**DATE : 26th JULY, 2019****P.C.**

Notice of Motion No.1 of 2018 not on board. Taken on board.

2. Leave to amend is granted to correct Parsi Suit number as 2 of 2018 in the Notice of Motion No.1 of 2018 and in Notice of Motion No.3 of 2019 in the title of the notices of motion. Amendment to be carried out within one week from today. Re-verification is dispensed with.

3. Ms.Irani, learned counsel appearing for the plaintiff states that

the defendant has been served. Statement is accepted. None appeared for the defendant when the matter was called out. No affidavit in reply is filed. Affidavits of service insofar as Notice of Motion No.1 of 2018 is filed is on record on 17th September,2018 and 22nd December,2018.

4. Insofar as Notice of Motion No.1 of 2018 is concerned, the plaintiff seeks permanent injunction against the defendant from creating any third party rights in respect of the properties described in prayer clause (a) of the notice of motion and for other reliefs in suit filed by the plaintiff.

5. Insofar as Notice of Motion No.3 of 2019 is concerned, the applicant has filed this notice of motion inter alia praying for maintenance from the defendant in the sum of Rs.50,000/- per month for the plaintiff and minor daughter, for education and education relating expenses of minor daughter and for various other reliefs.

6. By an order dated 21st June, 2019 passed by this court in Notice of Motion No.2 of 2019, this court has already granted interim relief in terms of prayer clause (d) of the notice of motion.

7. Ms.Irani, learned counsel appearing for the plaintiff invited my attention to the averments made in the affidavit in support of the notice of motion and would submit that the plaintiff has no steady job or work since December 2013 and was a full time housewife. However, since June 2017 she has started working as cinematographer or assistant cinematographer. She has spent more than Rs.1.5 lacs approximately

on the delivery of the child. In paragraph (7) of the affidavit in support of the notice of motion, the plaintiff has set out the details of the expenses required to be incurred by the plaintiff on herself and the child which comes to Rs.52,000/- per month. In paragraph (4) of the affidavit in support, the plaintiff has set out the source of income of the defendant which is substantial amount.

8. It is also the case of the plaintiff that as on today, the plaintiff has been staying in her rented accommodation at Behram Baug Parsi Colony, Jogeshwari West. The plaintiff was also required to carry out several medical tests from time to time. The defendant has refused to pay any amount to the plaintiff. The plaintiff has to pay the monthly rent of accommodation in the sum of Rs.3,500/- along with other miscellaneous charges.

9. No affidavit in reply is filed by the defendant controverting the allegations made in the affidavit in support of these two notice of motions.

10. The plaintiff has also annexed the receipt issued by Ranina Day Nursery showing payment of Rs.3,000/- collected from the plaintiff towards fees of the child for the year 2017-18 and other expenses.

11. The averments made in the affidavit in support are accepted for the purpose of granting interim relief in the notices of motion. The defendant cannot refuse to maintain the plaintiff and the child. The plaintiff is unable to maintain herself and the minor child without

having permanent source of income.

12. The plaintiff has made out a case for grant of injunction in respect of the flat described in prayer clause (a) of the Notice of Motion No. 1 of 2018 and for other reliefs. I, therefore, pass the following order :-

(a) Notice of Motion No. 1 of 2018 is made absolute in terms of prayer clause (a).

(b) Notice of Motion No. 3 of 2019 is made absolute in terms of prayer clause (a).

(c) The defendant is directed to pay maintenance charges in terms of prayer clause (a) w.e.f. from January 2019 on or before 10th of each month. The arrears of maintenance allowed by this court shall be paid within four weeks from today without fail.

(d) The defendant is directed to file written statement within four weeks from the date of communication of this order with a copy thereof to be served upon the plaintiff's advocate simultaneously.

13. It is made clear that no further extension of time would be granted. If the written statement is not filed within four weeks from the date of communication of this order, the plaintiff would be at

liberty to make an application for proceeding with the suit *ex-parte*.

14. Notice of Motion No. 1 of 2018 and Notice of Motion No. 3 of 2019 are disposed of on the aforesaid terms.

15. The plaintiff is directed to convey this order to the defendant for compliance and information.

16. The parties to act on the authenticated copy of this order.

17. The defendant is directed to pay cost of Rs.25,000/- to the plaintiff within two weeks from the date of communication of this order.

18. It is made clear that at this stage, this court has not considered the other prayers in the notice of motion in view of the extreme urgency insofar as payment of maintenance is concerned.

19. The plaintiff is at liberty to file a separate notice of motion in respect of other reliefs after six weeks.

[R.D. DHANUKA, J.]