

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 5467 OF 2016

Kalpana W/o Prakash Nimje
..VS..
Prakash S/o Pundlik Nimje

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.P. Hedao, Advocate for the petitioner.
Shri Yuvraj S. Khobragade, Advocate for the respondent.

CORAM : A.S. CHANDURKAR,J.
DATED : 7th JUNE, 2019.

. Heard the learned counsel for the parties. The petitioner is aggrieved by the order passed by the learned Judge of the Family Court dated 12.01.2016 whereby the application filed by the petitioner below Exhibit 62, seeking modification in the amount of interim maintenance has been rejected.

2. The respondent herein had filed proceedings for divorce against the present petitioner. In those proceedings by order dated 19.05.2010, the respondent had been directed to pay maintenance to the petitioner at the rate of Rs. 3,500/- per month. The petitioner had

filed an application below Exhibit 62 seeking modification in that order. The learned Judge of the Family Court rejected that application by order dated 26.05.2014. The said order was challenged in Writ Petition No. 5895/2014 and by judgment dated 10.08.2015 the Family Court was directed to re-consider the said application below Exhibit 62. By the impugned order that application has been rejected.

3. Upon hearing the learned counsel for the parties it has transpired that the proceedings for divorce filed by the respondent herein came to be dismissed on merits. The said order has been passed on 29.08.2017. The respondent thereafter filed an appeal under Section 19 of the Family Courts Act, 1984. However, registration of that appeal has been refused for non-removal of office objections. In other words, the proceedings for divorce now stand dismissed, as a result of which the Family Court is now not seized of the matter. In other words, the proceedings in which the application below Exhibit 62 was filed have come to an end.

4. In Family Court Appeal No. 88/2014, this Court had accepted the joint pursis filed by the parties wherein amount of Rs.10,000/- per month was agreed to be paid as permanent alimony. Since, the petitioner seeks enhancement in the amount of maintenance and in the light of the fact that the proceedings for divorce are now not pending, the petitioner is at liberty to make an application for modifying the terms of the joint pursis in Family Court Appeal No. 88/2014. Keeping the points raised in the present petition open and without prejudice to the rights of the parties, the writ petition is disposed of with aforesaid liberty.

JUDGE

Prity G.