

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 44/2019

(DIPAK ANANDRAO DHANDE VERSUS GAYANTRI DIPAK DHANDE)

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

Court's or Judge's orders

Shri P.S. Tiwari, counsel for petitioner.
Shri S.O. Ahmed, counsel for respondent.

CORAM : A.S. CHANDURKAR, J.

DATE : APRIL 26, 2019.

Heard finally considering the short issued involved in the writ petition.

The petitioner is aggrieved by the order passed below Exhibit 15 by the learned Judge of the Family Court. By that order, an ad-hoc arrangement to pay interim maintenance till application below Exhibit 15 was to be decided has been directed.

The petitioner herein had filed a petition under Section 10 of the Hindu Marriage Act, 1955 (for short, 'the said Act') seeking judicial separation. In those proceedings, while permitting its withdrawal, the learned Judge of the Family Court directed the petitioner to pay maintenance *pendente lite* at the rate of Rupees Five Thousand per month for the months from October-2017 to December-2017. Thereafter, the said marriage petition was withdrawn by the petitioner. Presently, the petitioner has filed another petition for dissolution of marriage and in those proceedings the respondent filed an application under Section 24 of the said Act seeking interim maintenance. This application is dated 03.01.2018. On 19.09.2018, the earlier ad-hoc arrangement was continued and the petitioner was directed to pay Rupees Five Thousand per month from the date of the application till

adjudication of the application at Exhibit 15. Being aggrieved, the petitioner has filed the present writ petition.

It is submitted by the learned counsel for the petitioner that with a view to contest the application below Exhibit 15, he had sought various documents to indicate employment of the respondent. Though such application was made on 11.09.2018, without granting opportunity to the petitioner, the impugned order was passed on 19.09.2018. He submits that in view of the documents now received, it is clear that the respondent is duly employed and is not entitled to any amount of maintenance. This fact has been suppressed by the respondent in the application below Exhibit 15.

The learned counsel for the respondent on the other hand submitted that the application for interim maintenance was filed in January-2018 and till the passing of the impugned order, reply was not filed. He further submitted that from the documents sought to be relied upon by the petitioner, it was clear that the respondent was not receiving any salary. Hence, the respondent is entitled to interim maintenance.

On hearing the learned counsel and on perusing the documents on record, it is seen that the Family Court initially had made an ad-hoc arrangement by its order dated 08.12.2017. The same arrangement has been continued by the Family Court by the subsequent order till the said application is decided. In view of the fact that presently, an ad-hoc arrangement is in operation and the fact that the application below Exhibit 15 is still pending, the interests of justice would be met by passing the following order without prejudice to the rights of the parties:-

- I. The petitioner shall file his reply to the application below Exhibit 15 alongwith necessary documents within a period of two weeks from today.
- II. The Family Court shall thereafter adjudicate the application below Exhibit 15 on its own merits expeditiously and preferably by the end of June-2019 without being influenced by the ad-hoc arrangement made as per the order dated 08.12.2017 or the order dated 19.09.2018.
- III. The respondent is at liberty to withdraw the amount of Rupees Twenty Thousand deposited by the petitioner without prejudice to the rights of the parties.
- IV. Till final orders are passed on the application below Exhibit 15, the petitioner shall continue to pay interim maintenance at the rate of Rupees Three Thousand Five Hundred per month.
- V. The rights and contentions of both the parties are expressly kept open and the present arrangement shall not influence the Family Court in any manner whatsoever.

With aforesaid directions, the writ petition is disposed of. No costs.

JUDGE

APTE