

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

35 WRIT PETITION NO.10950 OF 2016

PRASHANT MALHARRAO DESHMUKH
VERSUS
PRACHI PRASHANT DESHMUKH

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Advocate for Petitioner : Mr. Surve Hemant S.

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CORAM: ROHIT BABAN DEO, J.

Date: JANUARY 27th, 2020

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PER COURT :-

1 It is a sorry reflection on the justice dispensation system that this petition which is assailing the order dated 20.4.2016 whereby the interim maintenance is granted to the respondent wife and her child is being argued for admission in late January, 2020. Be that as it may, I am satisfied that no case is made out for interference in writ jurisdiction.

2 Mr. Survey, learned counsel for the petitioner would strenuously urge that the non-applicant wife is already awarded interim maintenance in a proceedings under section 125 of Criminal Procedure Code (Cr.P.C.) and the Protection of Women from Domestic Violence Act. However, in response to a Court query, Mr. Survey, learned counsel for the petitioner fairly states that his client has not paid the maintenance as is directed in the aforesaid two proceedings. The learned Judge has in paragraph No.10 of the order impugned duly considered the fact that the

maintenance directed to be paid under 125, Cr.P.C.. Proceedings and under the Domestic Violence Act is not paid to the non-applicant wife. It is a matter of regret that even the order impugned is not obeyed as is fairly admitted by the learned counsel Mr. Survey.

3 Mr. Survey would invite my attention to the medical papers which are placed on record. The learned Judge has held that the admitted fact that steel rod is implanted in both the feet would not necessarily lead to the inference that the applicant husband is not in a position to maintain his wife and child. I do not see any reason to differ. It is trite law that while considering the application for interim maintenance, a *prima facie* view has to be taken and once the inability of the wife to maintain herself is brought on record, grant of interim maintenance should ordinarily follow.

4 Even otherwise, I am not inclined to exercise writ jurisdiction at the behest of a litigant who is in contempt.

5 The petition is dismissed.

(ROHIT BABAN DEO, J)