

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 511 OF 2020

Lalit Satyanarayan Saraswat Petitioner

Vs.

1. Maya Lalit Saraswat
2. State of Maharashtra Respondents

Smt. Asha C. Shah for Petitioner.
Mr. O.P. Dubey for Respondent no.1.
Mr. S.D. Rayrikar, AGP for Respondent no.2.

Coram : NITIN W. SAMBRE, J.
Date : 22nd January, 2020

P.C.:

1. M.J. Petition No.A-750 of 2017 is initiated by the Respondent for grant of divorce before the Family Court. There are parallel proceedings going on before the Court of Metropolitan Magistrate wherein the husband is directed to pay maintenance of Rs.20,000/- per month from 16th December, 2013.

2. Admittedly there are arrears due out of order passed in D.V. Act proceedings.

3. As such, before the Family Court in the divorce proceedings certain interlocutory applications came to be moved. While dealing with the same, the Family Court ordered to put the petitioner to condition of deposit an arrears of Rs.10.00 Lakhs.

4. Learned counsel for the Petitioner-husband would urge that the order of maintenance is already subject matter of modification in an application preferred to that effect at the behest of the Petitioner. It is further claimed that there is an independent mechanism provided for recovery of maintenance ordered under D.V. Act and in such an eventuality, the Family Court while dealing with the divorce proceedings ought not to have made the Petitioner subject to condition of deposit of arrears, that too in absence of any express legal provisions.

5. Learned counsel for respondent no.1-wife supports the order.

6. The order passed below Exhibit 1 dated 28th November, 2019 is on an issue whether the parties have reached to a settlement,

whereby the present petitioner was directed to clear entire arrears within a period of three days i.e. amount of Rs.10.00 Lakhs.

7. As such what can be noticed from the record is the Petitioner was expecting certain discretionary reliefs from the Court and while considering such prayer, if the Family Court has put to the Petitioner condition of deposit of arrears, which are due and payable since December, 2013 cannot be termed as unreasonable condition. If the Court has empowered to grant interim relief, the Court has every power to grant such relief subject to certain conditions, which are reasonable in nature.

8. In that view of the matter, once the Court is empowered to pass an order as was prayed by the Petitioner on certain conditions, such order cannot be termed to be without any lawful authority.

9. The petition is devoid of any merits. Dismissed.

10. However, it shall be open for the Petitioner to deposit an amount of arrears of Rs.10.00 Lakhs in three instalments. The first

instalment of Rs.4.00 Lakhs shall be due and payable by 15th February, 2020. The other two instalments of Rs.3.00 Lakhs each be honoured by depositing the amount in the D.V. Act proceedings by 15th March, 2020 and 15th April, 2020 respectively. This protection to the Petitioner shall operate only if the Petitioner adheres the time limit prescribed.

(NITIN W. SAMBRE, J.)