

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6224 OF 2019

Shri Somnath alias Amol Ramakant Pandit ... Petitioner
versus
Sou. Deepali Somnath alias Amol Pandit ... Respondent

Shrishail Sakhare for the Petitioner.

None for the Respondent.

CORAM :- SMT.BHARATI DANGRE, J.

DATE :- MARCH 3, 2020

P.C. :-

1. The petition challenges the order dated 27th September, 2018 passed by the Family Court, Solapur. By the order impugned, the petitioner is directed to pay an amount of Rs.5,000/- per month to his wife and Rs.5,000/- per month to his son Vedant from the date of the application, as an interim maintenance. The petitioner is also directed to pay an amount of Rs.600/- as expenses for enabling the respondent to attend the proceedings plus an amount of Rs.10,000/- by way of legal expenses.

2. Heard learned counsel for the petitioner.

3. The petitioner has instituted the proceedings for divorce in the Court at Solapur. The respondent is a resident of Omerga and

she is required to undertake the journey from Omerga to Solapur to defend the proceedings.

4. By the impugned order, based on an assertion that the petitioner is working with the Airport Authority and earning a sum of Rs.1,00,000/- per month, the Family Court has returned a finding that the petitioner is working as a Loader at the Airport. Since he failed to come clean with his actual salary, which he draws every month, the Court on a presumption that he must be drawing a salary of Rs.25,000/- per month, has granted an amount of Rs.5,000/- per month to the wife and Rs.5,000/- per month to the son towards interim maintenance.

5. The argument that the Court ought to have first arrived at the conclusion as to the earning of the petitioner and then award a sum of maintenance may appear attractive one, but is baseless. The reason being in the the proceedings instituted by the husband under Section 13 of the Hindu Marriage Act, 1955, it is the wife who claims, *pendente lite*, a minimum sum for her subsistence with a specific plea that she has no source of income for her livelihood. The amount of expenses to defend the proceedings which have been instituted by the husband and when the Court on the premise that the husband may not be earning Rs.1,00,000/-, but he may be earning Rs.25,000/-, which is not specifically

denied when the claim is set out in the application.

6. In such circumstances, no perversity can be found in the order passed by the Family Court, Solapur and in any contingency, it is an order passed on an interim application, pending the proceeding under the Hindu Marriage Act, 1955.

7. The writ petition being without any merit and substance deserves to be dismissed and accordingly it is dismissed.

(SMT.BHARATI DANGRE, J.)