

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5567 OF 2019**

Smt. Poonam Lole . .. Petitioner

Vs.

Amit Lole & Ors. .. Respondents

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Mr. Sushant Prabhune for the Petitioner.

Mr. Rupesh Zade for Respondent Nos.1 to 3.

...

CORAM: SMT. BHARATI DANGRE, J.

DATED : 06TH MARCH, 2020.

P.C:-

1. Heard learned counsel for the Petitioner and learned counsel for Respondent Nos.1 to 3.

2. The grievance raised in the Petition is about the Order dated 21/02/2019 passed by the Civil Judge, Senior Division, Baramati. The said order has been passed on an Application, below Ex-5, filed by the Plaintiff for grant of interim maintenance of Rs.30,000/- per month from Defendant No.1.

3. The Civil Judge, Senior Division, Baramati considered the issue as to whether the Plaintiff-wife is unable to maintain herself and whether she is entitled to maintenance from the Respondent-husband. Taking on record the document, which is an offer letter issued in favour of the Plaintiff-wife by Mahalaxmi Automotives Pvt. Ltd. dated 29/07/2016 offering an appointment to her to the post of Assistant MDS Manager with a monthly salary of Rs.15,000/- per month, the learned Judge recorded a finding that the Plaintiff had suppressed the fact of her appointment and, from the documents it can very well be inferred that she is engaged in service and is drawing a salary of Rs.15,000/- per month. Based on the said document, an inference was drawn that since the Plaintiff is having an independent source of income, directing the Defendant to pay maintenance to her would cause injustice to the Defendant and the Application came to be rejected by the impugned order.

4. Learned counsel for the Petitioner submits that the Application was heard on 16/02/2019 and after his argument was over, the Defendant placed on record a list of documents which included the five documents of which document No.1 was the document reflecting the appointment of the Plaintiff in Mahalaxmi Automotives Private Limited. Learned counsel would submit that there is no dispute about the fact that an appointment order was issued in her favour but the subsequent events are

relevant and important; the events that the Plaintiff has resigned from the said job on 17/09/2016 and her resignation was accepted on 18/10/2016. The two documents i.e. the resignation letter and the relieving letter relieving the Plaintiff from her services by the Mahalaxmi Automotives Private Limited and acknowledging that she had worked for one and half month with the said establishment, are annexed to the Writ Petition as Ex-F and Ex-G.

5. Learned counsel for the Petitioner submits that he did not get an opportunity to place the said documents on record of the trial court earlier. According to him, after the matter was argued by the Plaintiff, the Defendant has placed on record the list of documents including the appointment letter and the Plaintiff was taken by surprise when the Civil Judge, Senior Division placed reliance on the very same document and rejected her claim. According to the Plaintiff, she did not get an opportunity to place on record her resignation letter dated 17/09/2016 and relieving letter dated 18/10/2016.

6. The learned counsel for the Respondent do not dispute the said position and the parties are *ad idem* to the fact that the matter be remanded to the Trial Court for re-determination of the issue in the light of the documents at Ex-F and Ex-G in the form of resignation letter of the Plaintiff along with relieving letter

relieving her from the said job.

7. In such circumstances, after taking into consideration the said documents, the Civil Judge, Senior Division may either confirm the said order dated 21/02/2019 or may suitably alter or vary the said order by affording an opportunity of hearing to the parties and granting permission to produce any additional documents which the parties are desirous to tender before the Court for effective adjudication of the issues.

8. In the light of the aforesaid observation, the Writ Petition is disposed of by setting aside the order dated 21/02/2019. The Application below Ex-5 is directed to be re-heard by the Civil Judge, Senior Division, Baramati within a fixed time schedule and, in any case, not later than three months from today.

[SMT. BHARATI DANGRE, J.]