

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8128 OF 2018
WITH
INTERIM APPLICATION NO.1 OF 2020

Jitesh Suresh Parmar ... Petitioner
versus
Asmita Jiteshji Parmar ... Respondent

WITH
WRIT PETITION NO.4701 OF 2019

Asmita Jitesh Parmar ... Petitioner
versus
Jitesh Suresh Parmar ... Respondent

A.R.Bubere for the Petitioner/Applicant in
WP/8128/18, IA/1/2020 and for the
Respondent in WP/4701/19.

P.D.Dalvi for the Petitioner in WP/4701/19
and for the Respondent in WP/8128/18.

CORAM :- SMT.BHARATI DANGRE, J.

DATE :- FEBRUARY 26, 2020

P.C. :-

1. Being aggrieved by the order dated 1st March, 2018 passed by the learned 4th Joint Civil Judge, Senior Division, Kalyan, two Civil Writ Petitions are preferred.

2. Writ Petition No.8128 of 2018 is filed by the respondent (husband) challenging the order, which mandates him to pay an amount of Rs.15,000/- per month as interim maintenance from 18th August, 2017 till the pendency of the petition.

3. Writ Petition No.4701 of 2019 is filed by the petitioner-wife on the pretext that the order directing payment of maintenance to the tune of Rs.15,000/- per month is incorrect and she is entitled for an amount of Rs.50,000/- per month i.e. the amount claimed by her in the application preferred under Section 24 of the Hindu Marriage Act, 1955 towards interim maintenance.

4. Heard the petitioners in both the writ petitions and perused the impugned order.

5. An application, which is filed by the petitioner under Section 24 of the Hindu Marriage Act, 1954, apart from narrating the matrimonial discord between the parties, contains a statement to the effect that respondent is engaged in the business of diamond and runs two diamond shops, which yield an income of more than Rs.7,00,000/- per month. It is also averred that the father of the respondent is into a cloth business, which gives him an earning of Rs.80,000/- to Rs.90,000/- per month. Based on the aforesaid sums as income of the respondent and his family, a claim of Rs.50,000/- per month towards maintenance is put forth akin to the standards of the family. No response has been filed to the said application and the respondent has chosen to rely on the written statement filed by him as a counter to the petition filed under Section 13(ia)(ib) of the Hindu Marriage Act, 1955 i.e.

petition seeking dissolution of marriage. The contention of the petitioner being not traversed, the learned 4th Joint Civil Judge, Senior Division, Kalyan, on the face of it, accepts the contention that the respondent is engaged in the business of diamond and his family is into the business of cloth and the financial capacity of the respondent therefore compels him to disburse an amount of Rs.15,000/- towards the maintenance of his wife. The bare contention that the respondent was working as a servant in the business of his father and merely earning Rs.10,000/- has been rejected and rightly so. The award of maintenance that has been awarded by the learned 4th Joint Civil Judge, Senior Division, Kalyan is in the form of interim maintenance and parties are at liberty to adduce the evidence when the application is at the stage of final hearing.

6. At this juncture, no illegality can be found in the impugned order. Resultantly, Writ Petition No.8128 of 2018 deserves to be dismissed and it is dismissed accordingly.

7. In the light of the order passed in Writ Petition No.8128 of 2018, Interim Application No.1 of 2020 does not survive and stands disposed of accordingly.

8. As far as Writ Petition No.4701 of 2019 is concerned, the learned counsel for the petitioner seeks leave to withdraw the said writ petition. Leave as prayed for is granted. Writ Petition No.4701 of 2019 is dismissed as withdrawn.

(SMT.BHARATI DANGRE, J.)