

BDP-SPS

Bharat
D.
Pandit
Digitally signed
by Bharat D.
Pandit
DN: cn=Bharat D.
Pandit, o=BDP-SPS
16-04-2019 16:04:28 +0530

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6950 OF 2019**

Mrs. Neeta Yogesh Patankar

.... Petitioner.

V/s

Mr. Yogesh Yuvraj Patankar

.... Respondent.

Mr. Rajesh A. More for the Petitioner.

Mr. Abhijeet Joshi i/b Ms. Varsha Sawant for Respondent No.1.

CORAM: NITIN W. SAMBRE, J.

DATE: JANUARY 24, 2020

P.C.:-

1] The orders dated 30/4/2019 and 26/10/2018 passed by Family Court, Pune in exercise of powers under Section 24 of the Hindu Marriage Act are subject matter of challenge in this Petition.

2] By the orders impugned, Family Court has refused to reject the application moved by the Petitioner-wife, seeking interim maintenance of Rs 47,500/- per month.

3] It is an admitted fact on record that when the parties were staying together they were blessed with two issues i.e. sons who are

admittedly in the custody of Petitioner-wife. Respondent-wife is earning monthly salary of Rs 32,500/- per month which is formed to be the basis for rejection of maintenance. Family Court has also noted certain conduct of the Petitioner-wife and made observation that custody of child is used so as to twist the arms of Respondent-husband to get the maintenance.

4] In view of the consent extended observations made by Family Court in the order impugned dated 26/10/2018 in para 16 viz *“Prima facie in my opinion, such women who holds the child at ransom, is not interested in the custody of the child, but are only interested in money of their husband. She has not come to the court with clean hands. The expenses and liabilities as narrated by her lacks credit and substance.”* are scratched.

5] After hearing parties for some time, since this Court was inclined to show indulgence in favour Petitioner-wife, as the order impugned refusing maintenance is based on certain incorrect appreciation of documentary evidence, learned Counsel for Respondent-husband has extended consent for quashing of the order impugned and request is

made that Application Exhibit-23 can be heard afresh by Family Court.

6] In view of the consent extended, present Petition needs to be allowed in terms of prayer clauses (a) and (b) and same is accordingly allowed.

7] Family Court is directed to decide proceedings of maintenance initiated below Application-Exhibit-23 afresh after hearing the parties. Let the Application-Exhibit-23 be decided expeditiously.

8] Needless to clarify that this Court has not examined merit of the matter. I am informed by Counsel for the parties on telephonic instructions received that there are certain change in circumstances after impugned order was passed. As such, parties are at liberty to bring the same to the notice of the Court below by filing additional documents.

(NITIN W. SAMBRE, J.)