

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 6466 OF 2019

(Shri Sarjerao s/o. Jagdish Deshmukh..vs.. Sau Samrudhi w/o. Sarjerao Deshmukh)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Shri S.S. Singane, Advocate for petitioner.
Shri R.G. Kavimandan, Advocate for respondent.

CORAM: RAVINDRA V. GHUGE, J.

DATE: 7th JANUARY, 2020.

1. The petitioner husband is before this Court being aggrieved by the order dated 8.8.2019, passed by the trial Court vide which application Exh. 14, filed by the wife seeking maintenance in Marriage Petition No. 230 of 2018, was allowed. She was granted maintenance pendent lite @ Rs. 10,000/- per month from the date of her application and the husband was directed to pay Rs. 2,000/- as expenses of the proceedings, in addition thereto.

2. I considered the strenuous submissions of the learned Advocates for the respective sides. I find from the impugned order that the salary certificate of the petitioner was not before the trial Court and the trial Court considered the agricultural income of the father of the husband on the ground that he must be getting some share out of the said income. He must also be getting a handsom salary.

3. These conclusions appears to be on conjunctures and surmises. Under the order of this Court dated 25.9.2019, the husband has placed the salary certificate for the month of July,

2019 before this Court which indicates that his gross salary is about Rs. 26460/- and pursuant to statutory deductions, his take home salary is Rs.26,260/-.

4. The Hon'ble Apex Court has held in the matter of ***Kalyan Dey Chowdhury vs. Rita Dey Chowdhury Nee Nandy, 2017(Vol.14) SCC 200*** that 25% of the income of the husband should be the maintenance amount to be paid to the wife so that the status and dignity of the wife can be maintained. Considering the above, Rs. 6500/- would be equivalent amount to 25% of the salary of the husband.

5. In view thereof, this petition is partly allowed. The impugned order dated 8.8.2019 stands modified and the petitioner husband shall be liable to pay an amount of Rs. 6500/- per month from the date of the application Exh. 14.

6. The learned Advocate for the wife submits that the petitioner has not paid a single penny despite the impugned order dated 8.8.2019 and even pursuant to the interim order passed by this Court dated 25.9.2019.

7. I called upon the learned Advocate for the petitioner as to whether he could be directed to deposit the entire arrears as a condition precedent to proceed with Marriage Petition No. 230 of 2018. It is submitted that the arrears would be deposited before the trial Court on or before 10.2.2020. In view of the above, the petitioner shall deposit the arrears of maintenance amount @ Rs. 6500/- from the date of the application Exh. 14 and the legal expenses of Rs. 2000/-, on or before 10.2.2020, failing which Marriage Petition No.230 of 2018 shall stand

dismissed on 11.2.2020. If the said amount is deposited, the wife would be at liberty to withdraw the said amount.

(Ravindra V. Ghuge, J.)

Belkhede RS