

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

921 WRIT PETITION NO. 516 OF 2021

UJWALA W/O RAMESH ANANTWAR
VERSUS
RAMESH S/O GOVINDRAO ANANTWAR

.....
Advocate for Petitioner : Mr. Gandhi Amol S.

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CORAM : V. K. JADHAV, J.
DATED : 14TH JANUARY, 2021

PER COURT :-

1. Heard learned counsel for the petitioner-wife at length.

2. Initially, petition no. A385 of 2014 for divorce filed by the respondent-husband on the ground of cruelty came to be allowed. However, the said order being *ex-parte*, the Division Bench of this Court has remanded the matter. Thereafter, the said petition No. A385 of 2014 was re-opened and it was contested by both sides. By judgment and order dated 09.10.2017, the learned Judge of the Family Court allowed the petition A385 of 2014 and granted the decree of divorce

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in favour of the respondent-husband. Operative part of the order dated 09.10.2017 is reproduced as under:

- “1. This petition is allowed.
2. The marriage between the petitioner and respondent solemnised on 02.06.2006 is hereby dissolved by a decree of divorce under Section 13(1)(ia) of the Hindu Marriage Act with effect from the date of this order i.e. 09/10.2017.
3. Petitioner is ordered to pay permanent alimony @ Rs.10,000/- per month to respondent from the date of this order until she remarries or until she is proved to be capable of maintaining herself.
4. Petitioner is restrained from interfering into the possession of respondent over his house situated in Hudco, Nanded, except in accordance with law.
5.
6.
7.”

3. Thus, the petitioner-wife was granted permanent alimony at the rate of Rs.10,000/- per month from the date of the order until she remarries or until she is proved to be capable of maintaining herself. In the same order, the Family Court restrained the respondent-husband from interfering into the possession of the petitioner-wife over his house situated in Hudco, Nanded, except in accordance with law.

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4. It further appears that being aggrieved by the same, particularly to the extent of clause 4, the respondent-husband preferred Family Court Appeal No. 60 of 2017 and the Division Bench of this Court has modified the said clause no. 4 by restraining the respondent-husband from interfering in the possession of the petitioner-wife over his house situated in Hudco, Nanded for a period of six months, except in accordance with law, from the date of the order. The appeal was thus partly allowed and disposed off accordingly. The rest of the judgment and order passed by the Family Court stood confirmed.

5. After expiry of the said period of six months, the respondent-husband has filed Regular Darkhast No. 8 of 2019. Learned Judge of the Family Court, Nanded, by the impugned order dated 29.01.2020, directed the petitioner-wife to vacate the house of the respondent-husband situated at ND-42/P/2-40/7 Hudco, Nanded on or before 01.04.2020.

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6. Though the learned counsel for the petitioner-wife vehemently submitted about the order passed by the Judicial Magistrate First Class, Nanded below Exhibit 36 in P.W.D.V.A. No. 44 of 2016 under the provisions of the Protection of Women from Domestic Violence Act, 2005, thereby restraining the respondent-husband from committing any act of domestic violence against the petitioner-wife and also restraining him from dispossessing her from the shared household, in my considered opinion, the said order passed by the Magistrate on 08.11.2017 below Exhibit 36 does not survive in the light of the judgment and order passed by the Division Bench of this Court dated 05.07.2018 in Family Court Appeal No. 60 of 2017.

7. In view of the above, I find no fault in the order passed by the executing court. There no substance in this Writ Petition. The Writ petition is therefore dismissed.

(V. K. JADHAV, J.)

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