

Urmila Ingale

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 3618 OF 2020

Sumeet Suresh Tapase	Petitioner
Vs.	
Rameshwari Sumeet Tapase	 Respondent

Mr.Nikhil Wadikar i/b Mr.Nandu Pawar, for the Petitioner.
Mr. Sugandh B. Deshmukh, for the Respondent.

CORAM : M. S.KARNIK, J.

DATE : 12th JULY, 2021

P.C. :

. Heard learned Counsel for the Petitioner. The challenge in this Petition filed under Article 227 of the Constitution of India is to an order dated 16/10/2019 passed by the Family Court granting maintenance of Rs.30,000/- per month to the Respondent - wife and Rs.10,000/- to the minor son - Mrugank as an interim maintenance from the date of the application i.e. from 08/05/2019. Assailing the impugned order, learned Counsel for the Petitioner submitted that the learned Judge, Family Court has resorted to a lot of guess work in arriving

at the finding in support of grant of maintenance. According to him, the Petitioner – husband is working as a salesman, earning a salary of Rs.9,000/- per month, despite which, exorbitant amount of Rs.40,000/- p.m. has been granted as maintenance. He submits that the hotel Sai Raj, income from which business formed the basis for the Family Court to grant the maintenance, in fact belongs to the mother of the Petitioner. The Petitioner has no concern with this hotel business. It is further pointed out that the relations between the Petitioner and his parents are strained and therefore the income derived from the business of running hotel Sai Raj cannot be taken into consideration.

2. It is submitted that the Petitioner was previously running a restaurant 'Cafe Chai & Coffee' which had to be closed down because of inadequate business and the Petitioner was constrained to take up a job as a salesman.

3. Learned Counsel further submits that the Family Court has taken into consideration the properties owned by the Petitioner's parents while deciding the quantum of interim maintenance. According to the learned Counsel, the order passed by the Family Court is not based on any materials and

even the Respondent - wife has sufficient means to maintain herself. According to him, the Respondent - wife is conducting coaching classes and earning substantial income. To demonstrate the income, the Petitioner relied upon the income tax returns produced on record. He further submits that adverse interference should have been drawn against the Respondent - wife as she has failed to produce the income tax returns for the subsequent years and present income which is in the knowledge of the Respondent has not been brought on record.

4. Shri Deshmukh on the other hand supported the impugned order.

5. I have gone through the impugned order. No doubt, the materials on record does indicate that the Respondent is earning income approximately to the tune of Rs.20,000/- per month. The Respondent in the application for interim maintenance claimed an amount of Rs.1 lakh. The Family Court has observed that the mother of the Petitioner owns hotel Sai Raj situated at Radhika Road near bus stand of Satara which is a commercial market area. The said hotel Sai Raj has thirty luxurious lodging rooms. A copy of the advertisement of hotel Sai Raj published in a journal of Veer Shaiv Kakkaya Community

indicates the photographs of the Petitioner and his father. In this advertisement, qualification of the Petitioner is mentioned as BBA, MBA, PGDHO, DTL. The Family Court then made a reference to the properties owned by the parents of the Petitioner to arrive at a finding that it is a financial well of family from Satara, though the income from their properties is not the basis of deciding the quantum. The Family Court came to the conclusion that the nexus between the Petitioner and hotel Sai Raj is adequately established and thereby disbelieved the Petitioner's case that he is earning mere Rs.9,000/- as a salesman. Further it is observed that the brother of the Petitioner is a renowned Neuro Surgeon and sister-in-law is also a doctor. The Family Court was of the opinion that the business of hotel Sai Raj can be attributed to the Petitioner and his father.

6. Having gone through the order passed by the Family Court, it cannot be said that the order passed is perverse. The view is a possible view. The impugned order does not therefore warrant any interference in exercise of writ jurisdiction under Article 227 of the Constitution of India. I see no reason to interfere with the well reasoned order of the Family Court. The Petition is dismissed.

(M.S.KARNIK, J.)