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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5010 OF 2021**

MEGHA NILESH NAIK

....Petitioner.

V/s

NILESH PRANAVRAJ NAIK

.....Respondent

Ms. Amita Chaware for the Petitioner
None for the Respondent.

CORAM: NITIN W. SAMBRE, J.

DATE: OCTOBER 27, 2021

P.C.:-

1] None for the Respondent.

2] Heard learned Counsel for the Petitioner.

3] In proceedings taken out under Sections 24 and 26 of the Hindu Marriage Act seeking maintenance to the tune of Rs 30,000/- per month for herself and her son who is in custody of the Petitioner, Family Court rejected prayer of the Petitioner to the extent of her claim for award of maintenance, whereas claim for award of maintenance in favour of the son came to be allowed, thereby awarding Rs 6750/- per month. As such, this Petition.

4] Contentions are, even if Petitioner-wife has produced on record income-tax returns depicting her last monthly income amount of Rs 33,750/-, during pandemic same has gone down and as such she is unable to maintain herself and further award of maintenance in favour of the son is since meager, present Petition is preferred.

5] If we appreciate the aforesaid submissions, what is required to be noted is, Family Court while dealing with the claim for award of maintenance has considered gross income of the Respondent-husband to the tune of Rs 60,000/-. The court thereafter proceeded to consider liability of the Respondent-husband who has taken loan for purchase of house jointly in the name of the Petitioner. The court further noticed that Respondent-husband is paying EMI towards the said property which is jointly owned by the Petitioner.

6] Apart from above, the Court analysed income-tax returns of the Petitioner for the period 2016-2017, 2017-2018 and 2019-2020 and has noticed that the Petitioner is drawing monthly income of Rs 33,750/- which is sufficient for herself as she is not sharing any amount towards requirement of repayment of bank loan in relation to property purchased in the joint name. In spite of above, the court having regard to the claim for maintenance of the son has awarded Rs 6750/- for which there are specific observations.

7] In that view of the matter, in my opinion, no case for interference in extraordinary jurisdiction is made out. Petition as such

fails and same stands dismissed. However, this will not preclude the Petitioner from moving before the Court below for modification of the order of refusal to award maintenance in case of change in circumstances.

(NITIN W. SAMBRE, J.)