

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

Criminal Application (APL) No. 763 of 2021

Smt. Kanta w/o Anil Ramteke and others
Vs.
Anil s/o Khushalchand Ramteke

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

Court's or Judge's orders

Ms. D.I. Charlewar, Advocate for the applicants

CORAM : MANISH PITALE, J.

DATED : AUGUST 05, 2021

By this Application, the applicants have challenged order dated 01/07/2021, passed by the Family Court at Nagpur, whereby an application filed on behalf of the applicants for grant of interim maintenance was directed to be listed for necessary orders after the effect of Standard Operating Procedure (SOP).

2. The learned counsel appearing for the applicants submits that the aforesaid Court had erred in failing to consider the application for interim maintenance filed on behalf of the applicants and that the application has been directed to be kept after the effect of the SOP, on the basis of misinterpretation of the SOP.

3. Attention of this Court is invited to Circular dated 16/04/2021, issued by the Registrar General of this Court specifying the SOP, in the light of the Covid-19 pandemic and consequent orders issued by the Government from time to time. It appears that the Family Court has proceeded to pass the impugned order on the basis of paragraph 6 of the said Circular which reads as under :

“6. The Judicial Officers may not pass any adverse order owing to the absence of the advocate, parties, witnesses or accused persons.”

4. In the impugned order it is recorded that since the said Court cannot pass any adverse order in view of the SOP, the application for interim maintenance filed by the applicants can be considered only after the effect of the SOP is over.

5. This Court is of the opinion that the Family Court has erred in failing to consider the application for interim maintenance filed by the applicants. Paragraph 6 of the Circular quoted above would obviously not mean that the applications of the nature filed by the applicants herein would not be taken up for consideration at all. It is a strange interpretation of the said SOP, which has led to the application for interim maintenance filed by the applicants not being considered at all by the Family Court. Such applications obviously have a nature of urgency which needs to be considered in the interest of justice. It is

not as if the Family Court was required to pass adverse orders in the form of evicting some person or taking any coercive action against any person. The Family Court has proceeded to simply defer the application till the effect of the SOP is over.

6. This Court is of the opinion that the approach adopted by the Family Court is wholly erroneous. Ordinarily, this Court would have issued notice to the respondent before interfering in the impugned order, but, since the impugned order is passed on misinterpretation of the Circular / SOP, issued by the Registrar General of this Court, it would be in the interest of justice that the present application is disposed of with appropriate directions.

7. In view of the above, the present application is disposed of by directing the Family Court No.2 at Nagpur to consider the application for grant of interim maintenance filed by the applicants herein, in accordance with law, without waiting for any variation in the SOP, notwithstanding, the impugned order dated 01/07/2021.

8. The Family Court to proceed accordingly.

JUDGE