

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

FAMILY COURT APPEAL NO.67/2016

Dhyaneshwar s/o Nagorao Mohadikar,
Aged about 62 years, Occ. Retired (Pensioner)
R/o Manav Nagar Kharbi Bahadura,
Pandhan road, Kharbi, District Nagpur.

....Appellant

-vs-

Nirmala w/o Dhyaneshwar Mohadikar
Aged 45 years, Occ.: Daily wages
R/o Sonartoli Binakhi, Nagpur-17
Correct Address : At the office of Town Planning Department
2nd Floor, Narang Tower, Palm Road,
Civil Lines, Nagpur-440 001.

..Respondent

.....
Shri A.S.Moon, Advocate for appellant.
Shri Y.B.Mandpe, Advocate for respondent.
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CORAM : A. S. CHANDURKAR AND PUSHPA V. GANEDIWALA, JJ.

DATED : 16.02.2021

Oral Judgment : (Per A.S.Chandurkar, J.)

The challenge raised in the present appeal filed under Section 19 of the Family Courts Act, 1984 is to the judgment dated 9.05.2016 passed in Petition No.C-55/2014 by which the proceedings filed under Section 20 (1) of the Hindu Adoptions and Maintenance Act, 1956 seeking marriage expenses of the daughter has been partly allowed by granting sum of Rs.1,50,000/- to the respondent.

2. The appellant and the respondent were married on 10.12.1991. On account of marital discord the parties started residing separately. In the proceedings initiated by the wife, she was awarded maintenance for herself and her two children. According to the wife her daughter was married in the year 2014 for which she spent an amount of Rs.3,00,000/-. Since the entire amount had been spent by her, she filed the present proceedings claiming marriage expenses from her husband. These proceedings were opposed by the husband by filing reply. The husband denied the paternity of the said daughter and thus claimed that he was not liable to pay any expenses.

3. The parties led evidence before the Family Court and after considering the same, the learned Judge of the Family Court recorded a finding that the paternity of the daughter had not been challenged by her father-appellant. Further on the basis of the evidence on record, it was found that the amount of Rs.3,00,000/- as claimed was not exorbitant. Since the husband was a pensioner and as the wife was also employed, the claim to the extent of 50% of the marriage expenses came to be granted. Hence this appeal by the husband.

4. Shri A.S.Moon, learned counsel for the appellant submitted that the appellant was not the father of the daughter of the respondent and hence no liability could be saddled on the appellant. He further

submitted without prejudice that the evidence brought on record by the respondent did not indicate that the amount of Rs.3,00,000/- had been spent for the marriage. The expenses to the extent of Rs.1,00,000/- alone had been proved. He therefore submitted that the Family Court committed an error in partly allowing the application.

5. On the other hand Shri Y.B.Mandpe, learned counsel for the respondent supported the impugned order. According to him, the paternity of the daughter had not been challenged by the appellant till date. The Family Court had granted only 50% of the amount as claimed by the respondent which was reasonable. He therefore submitted that there was no reason to interfere with the impugned order.

6. In the light of the aforesaid submissions, the following point arises for determination :

Whether the order passed by the Family Court deserves to be interfered with ?

7. We have heard the learned counsel for the parties and we have perused the records of the case. At the outset, it may be noted that the paternity of daughter has not been challenged by the appellant till date. On the contrary, in the reply filed by the husband before the Family Court it was admitted that the respondent gave birth to two children as claimed

which includes the married daughter. Hence the Family Court was justified in not accepting this contention of the appellant.

The evidence on record indicates that the respondent had led evidence indicating the amounts spent by her for the marriage of her daughter. The said documents are at Exhibits 22 to 28. It is on that basis that the marriage expenses of Rs.3,00,000/- were claimed. However the learned Judge of the Family Court taking into consideration the employment of the respondent has awarded expenses to the extent of 50%. We find the same to be reasonable and the said direction has not been challenged by the respondent. The view as taken by the Family Court is based on the evidence on record and we do not find any reason to interfere with the same. The point as framed is answered accordingly.

8. In the result, the judgment 09.05.2016 in Petition No.C-55/2014 passed by the Family Court stands confirmed. The appellant is granted time of eight weeks to pay the balance amount of Rs.75,000/-to the respondent. Family Court Appeal No.67/2016 is accordingly dismissed with no order as to costs.

JUDGE

JUDGE

Andurkar..