

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

WRIT PETITION NO.575 OF 2021

VIJAY RAVINDRA GANGURDE  
VERSUS  
VARSHA VIJAY GANGURDE

...  
Advocate for the Petitioner : Shri Sachin Joshi i/by Shri Yeramwar Sushant  
C.  
...

**CORAM: SMT. BHARATI H. DANGRE, J.**

**DATE :- 03<sup>rd</sup> February, 2022**

**Per Court:**

1. Heard the learned counsel for the petitioner. Though the respondent is served with the notice for final disposal, she has not put an appearance. Left with no option, I have to proceed with the hearing of this petition.
2. The petitioner/ husband is aggrieved by the order passed by the learned Judge, Family Court, Dhule on an application filed for interim maintenance under Section 24 of the Hindu Marriage Act, in the petition filed by the husband seeking dissolution of the marriage solemnized between the parties in the year 2015.
3. In the application filed by the respondent/ wife, it is pleaded that the husband owns a car and has employed a driver to drive the same.

She specifically pleaded that he earns an amount of Rs.30,000/- per month. Apart from this, it is also pleaded that he owns a residential house at village Anakwadi, Taluka and District Dhule and there is huge agricultural land owned by his ancestors, which yields income of Rs.5 lacs per year. Apart from this, it is also pleaded that the husband owns a flat in Nashik and his father is in service, whereas, she and minor daughter are dependent upon them. Therefore, she claimed interim maintenance of Rs.10,000/- from the date of the filing of the application and expenses of the proceedings to the tune of Rs.20,000/- were also claimed.

It is on this application, the impugned order has been passed on 04.02.2020.

4. With the assistance of the learned counsel for the petitioner, I have perused the impugned order passed below exhibit 10, in the wake of the pleadings of the wife claiming that she is entitled for maintenance of Rs.10,000/-.

5. The learned Judge has specifically recorded in the order that the wife has not filed any document to establish that the husband is having earning of Rs.30,000/- to Rs.40,000/- per month. Similarly, the pleadings of the husband to the effect that the wife is also earning Rs.7,000/- to Rs.8,000/- per month is also not supported by any document. In absence of this proof being adduced, the learned Judge referred to the respective affidavits filed by the parties wherein, the

husband has admitted that he has some income from the landed property, but it is his ancestral property. Further, he has stated on oath that he is taking education and not earning anything on his own and he has no right in the property of his father.

Based upon this affidavit, the learned Judge has arrived at the conclusion that if the husband is taking education, he must be required to spend some money, which is provided by his parents and it means that he is having share in the property of the family. Further, based on the moral responsibility of the husband to take care of his wife and daughter, the affidavit filed by the wife has been believed where, she stated that the husband is earning Rs.30,000/- per month. Based on the aforesaid, the learned Judge arrived at the conclusion that an amount of Rs.5,000/- per month towards maintenance is sufficient to deal with the situation. However, by way of indulgence, the learned Judge has directed that an amount of Rs.3,000/- per month should be paid from 12.04.2019 to 04.02.2020 i.e. date of passing of the order and from 04.02.2020 till the final disposal of the petition and interim maintenance at the rate of Rs.5,000/- per month shall be paid thereafter.

6. The learned counsel for the petitioner fairly states that depending upon his limited financial source, he is ready to bear the burden of Rs.3,000/- per month towards maintenance of his wife.

This statement is accepted and I am convinced to modify the

order passed by the learned Family Court, who while passing the impugned order has not based the findings on any concrete material brought on record by the wife in relation to the earning of the husband. The husband has also filed the affidavit stating that the wife is also earning, but the same has been refused to be accepted by the learned Judge since no evidence is brought on record to that effect.

7. In these circumstances, the order passed by the learned Family Court calls for interference at the instance of this Court. Since in the wake of the statement made by the learned advocate that he would bear the responsibility of the amount of Rs.3,000/- per month for his wife, I deem it expedient to direct the petitioner/ husband to pay an amount of Rs.1,000/- per month for the minor daughter as well, who is barely 5 years old as on date and necessarily, the mother has to take care of her.

8. In the light of the aforesaid, the order passed by the Family Court dated 04.02.2020 is modified to the extent that the petitioner/ husband shall now be directed to pay interim maintenance at the rate of Rs.4,000/- per month (Rs.3000/- for the wife and Rs.1,000/- for the daughter) from the date of the order i.e. 04.02.2020. The order directing the husband to pay the amount of previous maintenance at the rate of Rs.3,000/- per month from the date of the application till 04.02.2020 remains undisturbed, since the learned counsel for the petitioner makes a statement that he has deposited the arrears of maintenance.

9. In the wake of the order of the Family Court being modified, the petitioner shall clear the amount of arrears of maintenance till 31.12.2021, within a period of six weeks from today and continue to pay the maintenance as directed above, every month till the final disposal of the marriage petition.

10. The Writ Petition is, accordingly, disposed of.

*kps*

( SMT. BHARATI H. DANGRE, J. )