

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

CRIMINAL WRIT PETITION NO.561 OF 2022

**MANOJ VASUDEV NIMBHORKAR
VERSUS
PALLAVI W/O MANOJ NIMBHORKAR AND ANOTHER**

....
Mr. Shritej Surve, Advocate h/f Mr. Hemant S. Surve,
Advocate for the Petitioner
Mr. A.P. Yenegure, Advocate for Respondent Nos. 1 and 2
....

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 07 SEPTEMBER 2022

PER COURT:-

. The petitioner is challenging the order of *ex parte* maintenance passed by the Judge, Family Court, Jalgaon in Petition No.E-58 of 2021.

2. Heard Mr. Shritej Surve holding for Mr. Hemant Surve, learned counsel for the petitioner and Mr. A.P. Yenegure, learned counsel for respondent Nos. 1 and 2.

3. Mr. Survey, learned counsel for the petitioner submitted that the impugned order of interim maintenance came to be passed *ex parte*. No opportunity of hearing was extended. It would be appropriate to remand the matter for

fresh decision so that the application for interim maintenance can be decided on its own merits.

4. Mr. Yenegure, learned counsel for respondent Nos. 1 and 2 submitted that both the parties have filed their statements on affidavit regarding assets, liabilities and their source of income. It may help to the Judge, Family Court to decide the quantum of interim maintenance after hearing both the sides.

5. Having regard to the submissions of Mr. Surve, learned counsel for the petitioner and Mr. Yenegure, learned counsel for respondent Nos. 1 and 2, it would be just and proper to quash and set aside the impugned order below exhibit 12 in Petition No. E-58 of 2021 dated 14.03.2022 passed by the Judge, Family Court, Jalgaon with direction to decide the same afresh after giving an opportunity of being heard to both the sides.

ORDER

(i) The criminal writ petition stands allowed.

(ii) The impugned order of interim maintenance vide below exhibit 12 passed in Petition No. E-58 of 2021 by the Judge Family Court, Jalgaon is hereby quashed and set aside.

(iii) The application for interim maintenance vide below exhibit 12 is restored to its original position.

(iv) The learned Judge, Family Court, Jalgaon shall decide the said application for interim maintenance after giving an opportunity of being heard to both the sides equally and after taking into consideration the statements on affidavit regarding their assets, liabilities and source of income.

(v) The learned Judge, Family Court, Jalgaon is requested to dispose of the said application for interim maintenance, as early as possible, within a month from the date of receipt of the writ of this court.

(vi) Inform the concerned court accordingly.

(vii) The petition is disposed of accordingly.

[SHRIKANT D. KULKARNI]
JUDGE

S.P Rane