

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

WRIT PETITION NO.7216 OF 2020

VISHAL DIGAMBAR KAMBLE
VERSUS
SUVARNA VISHAL KAMBLE

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Advocate for Petitioner : Mr. M. L. Dharashive
Advocate for Respondent No.1: Miss. Tanvi Jadhav

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 13th January, 2022

PER COURT :

. This petition challenges the judgment and the order passed by the Family Court, Latur below Exhibit-15 in Petition No.A-83/2019, thereby granting the petitioner/husband to pay interim maintenance at the rate of Rs.4000/- p.m. to the wife and at the rate of Rs.2000/- p.m. for son - Adhiraj from the date of application.

2. The learned advocate for the petitioner strenuously submits that the Family Court has erred in granting interim maintenance ignoring the documents placed on record showing that the wife is earning. He further submits that he has filed the proceedings seeking restitution of conjugal rights and he is ready and willing to maintain the wife, if she comes to him. He further submits that the petitioner is preparing for competitive examinations and is not earning anything. Only 1 Hectare 1 R. land is standing in the name of the petitioner's father. Therefore, the interim maintenance awarded by the Family Court is exorbitant.

3. Per contra, the learned advocate for the respondent/wife submitted that she has received telephonic instructions from the wife that due to pandemic situation, she has lost her job of clock hour basis lecturer ship and she is not earning anything. By relying upon the decisions in **A.S. Ramadass Vs. N. Malatahi** reported in **1999 (3) MJL 685** and **Chitra Sengupta Vs. Dhruba Jyoti Sengupta** reported in **1987 (92) Cal. W.N. 54**, she submits that the Family Court was right in awarding interim maintenance in favour of the wife and son. She further submits that the wife along with child has to travel 35 kilometers to attend the proceedings filed by the husband and therefore, the Family Court was justified in awarding Rs.500/- per visit to her. She supports the impugned order and submits that there is no substance in the petition and the petition is liable to be dismissed.

4. The matrimonial relation is not disputed. It is a settled legal position that it is the responsibility of the husband to maintain the wife and child. The Family Court while allowing the interim maintenance has taken into consideration the fact that the documents submitted by the husband were regarding past employment of the wife and therefore, they are of no assistance to the husband. A photocopy of a list on the plain paper is placed on record to contend that the wife is working as a Teacher in Shete English School and earning Rs.20,000/-, the Family Court has refused to place reliance on the same holding that the said list neither bears any signature nor bears any stamp or seal. The news about the education tour of students of Shete School, wherein the name of wife appears as one of the Teachers is also not rightly accepted by the Family Court. It is held

that if the wife was really in service, the husband could have easily got information from the concerned school regarding the employment of wife. In absence of anything to show that the husband has made any attempt for collecting the said information from Shete English School, the contention of the husband about the employment of wife cannot be accepted.

5. Admittedly, the wife has made a statement on oath that she is unable to maintain herself and her minor son. There is nothing on record to show that she is earning anything. Taking into consideration the status of the family and the fact that the husband is an able-bodied person and he is double graduate, he is able to provide interim maintenance to his wife and son. The Family Court has rightly considered the material placed before it. In that view of the matter, there is no illegality or perversity in the order impugned in the present petition. The petition is, therefore, dismissed.

6. The learned advocate appointed to represent the respondent/wife be paid an amount of Rs.2500/- by the High Court Legal Services Sub-Committee, Aurangabad within a period of four weeks from today.

(NITIN B. SURYAWANSHI, J.)