

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

WRIT PETITION NO. 10556 OF 2019

**RAJESHWAR PRABHAKAR BOTLAWAR
VERSUS
KU. SWATI PRABHAKAR BOTLAWAR AND OTHERS**

...
Advocate for Petitioner : Mrs. Smita S. Kulkarni
Advocate for Respondent No.1 : Mr. Vinod P. Patil
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 11th JULY, 2022

PER COURT :

1. The petitioner is aggrieved by the order passed by the learned 2nd Joint Civil Judge Senior Division, Nanded below Exhibit-63 in Special Civil Suit No.05/2018, thereby striking off the defence of the petitioner, on account non-payment of maintenance amount directed by the trial Court.
2. Heard the learned advocate for petitioner and the learned advocate for respondent No.1. Perused documents placed on record.
3. By order dated 21/01/2019, the trial Court directed petitioner to pay maintenance of Rs.10,000/- per month to the respondent No.1. This order was challenged by the petitioner in Writ Petition No.8890/2019. By interim order dated 23/07/2019, this Court directed the petitioner to pay maintenance of Rs.7,500/-

per month, instead of Rs.10,000/- per month.

4. The petitioner due to COVID pandemic could not regularly pay the amount directed by this Court. However, the petitioner has subsequently paid all the arrears. This position is not disputed by the learned advocate for respondent No.1.

5. It appears that interim order passed by this Court was not brought to the notice of the trial Court and therefore, the trial Court passed the impugned order thereby striking off the defence of the petitioner for non-payment of the maintenance amount.

6. Since the interim order passed by this Court is complied with by the petitioner, the impugned order cannot be sustained.

7. In the result, writ petition is allowed in terms of prayer clause 'B', which reads thus:

"B. To quash and set aside the impugned order dated 25/06/2019 in Special Suit No.05/2018 below Exhibit-63 passed by the learned Joint Civil Judge Senior Division, Nanded in view of the facts and circumstances and in the interest of justice."

(NITIN B. SURYAWANSHI, J.)