

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

**BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 1297 OF 2022

PRALHAD RAJARAM KAMBLE

VERSUS

SANCHI PRALHAD KAMBLE THROUGH HER LEGAL GUARDIAN MOTHER  
MANJUSHA PRALHAD KAMBLE AND ANOTHER

...

Advocate for Petitioner : Mr. Anjanwatikar Vinay B.

Advocate for Respondents : Mr. Salunke Sudarshan J.

...

**CORAM : KISHORE C. SANT, J.**

**DATE : 13<sup>th</sup> DECEMBER 2022.**

**Per Court :**

Heard both the parties.

1. This petition is filed with the prayer that challenging an order dated 18.07.2022 passed by the learned Judicial Magistrate First Class, Parbhani below Exhibit No.114 in Miscellaneous Application No.06/2012 and the letter dated 05.08.2022 pursuant to the said order. By the impugned order, the learned JMFC passed an order directing the employer of the petitioner to deduct Rs.15,000/- per month from the salary of the petitioner and to pay it to the respondent-wife. The

application was filed since there were arrears of Rs.1,80,000/- as the petitioner-husband was not regularly paying the maintenance of Rs.3000/- per month.

2. Now the grievance of the petitioner is that though his salary seems to be 96000/-, however he actually gets in hand only Rs.25000/- as he is required to pay the installments towards house loan plus compulsory deduction. Therefore, he prays for quashing of the impugned order.

3. The respondent-wife has vehemently contested the petition stating that the husband is not regularly paying maintenance amount and it is for this reason, she was constrained to file application seeking direction to deduct the amount from the salary of the husband. By way affidavit-in-reply, it is brought on record that the daughter Sanchi is taking education in 9<sup>th</sup> standard and she requires fees for tuition classes Rs.4000/- per month. Now because of the non-receipt of the maintenance time to time, the daughter is required to be admitted to the aided school as the payment of fees to the non-aided school is

beyond the capacity and the respondent-wife prays for rejection of the petition.

4. The petitioner-husband states that now arrears is only Rs.1,35,000/- and thus he is paying regularly Rs.3000/- per month, since the deduction has started from the month of October. It is true that the husband because of his default, is now facing this situation and he is to blame himself for the same.

5. Considering the statement of petitioner-husband that he is regularly paying the amount, then there was no question of distress warrant and such order. However, interest of justice would be met by modifying the order directing the Headmaster of the school i.e. Bal Vidya Mandir, Parbhani, to deduct Rs.10,000/- instead of Rs.15,000/- per month. Out of Rs.10,000/-, Rs.7000/- would be towards the arrears and Rs.3000 would be towards maintenance amount. Only with this modification, the petition is partly allowed. The deduction be made accordingly from the month of December, 2022. This order to take effect from the month of January, 2023.

6. Needless to say that the Headmaster would continue to deduct Rs.3000/- even after the arrears are paid.

7. With this, the Writ Petition is disposed off.

[ KISHORE C. SANT, J.]

*Najeeb.*