

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

943 WRIT PETITION NO.13912 OF 2021

**BHUSHAN ANANT JOSHI
VERSUS
NIVEDITA BHUSHAN JOSHI AND ANOTHER**

...
Advocate for Petitioner : Mrs. Minakshi L. Sangit
Advocate for Respondent No.1 : Mr. Shantanu A. Deshpande
...

CORAM : SANDEEP V. MARNE, J.

DATE : 05-12-2022

PER COURT :

. By this petition, petitioner has challenged the order dated 07.12.2019 passed by the Family Court, Dhule below Exh.5 in Petition A No.3/2019 awarding maintenance of Rs.12,000/- per month to respondent - wife under Section 24 of the Hindu Marriage Act.

2. Mrs. Sangit, the learned counsel for petitioner contends that the order of the Court is not supported by any concrete evidence relating to income of petitioner - husband. He submits that petitioner - husband is not employed anywhere, but is engaged in his own business and is earning an amount of Rs.15000/- per month and therefore it is impossible for him to pay monthly maintenance awarded by the trial Court. He further submits that so far the

petitioner - husband has deposited approximately amount of Rs.One Lakh and he is willing to deposit further amount of Rs.15000/- on 15.12.2022. Mrs. Sangit further submits that the Family Court erred in awarding interim maintenance of Rs.12,000/- per month as against Rs.15,000/- claimed by the wife.

3. Per contra, Mr. S.A. Deshpande, the learned counsel for respondent no.1 opposes the petition and supports the order passed by the trial Court. He submits that the couple has a daughter aged 5 years, who is in the custody of respondent – wife and she requires the amount of interim maintenance awarded by the Court for maintenance of herself as well as her daughter. Inviting my attention to the conduct of petitioner in not paying the amount of maintenance, he contends that an order of striking off defence of petitioner - husband has been passed by the Family Court on 17.06.2021. He further submits that the present petition has been belatedly filed on 05.10.2021 challenging the order of the Family Court dated 07.12.2019. He therefore contends that the real intention behind filing the present petition is to delay payment of interim maintenance to respondent – wife.

4. Having heard the learned counsel for the parties. It is

clear that both the parties were not able to lay any concrete evidence before the Family Court to prove the exact income earned by their counter parts. The Family Court has taken into consideration the fact that petitioner was previously employed and was earning salary to the tune of Rs.60,000/- to Rs.80,000/-. Petitioner has come out with a case that he has left the job and is engaged in the private business where he is not able to earn even Rs.15,000/- per month. However one important factor which is required to be borne in mind is that the couple has a daughter aged 5 years and the wife has a responsibility of maintaining their daughter. Considering the responsibility of maintenance of daughter, it cannot be stated that the amount of Rs.12,000/- awarded by the Family Court towards interim maintenance is excessive in any manner. Even if it is momentarily assumed that petitioner is not engaged in any employment or business, it is his responsibility to maintain the wife and daughter.

5. In view of the aforesaid circumstances, I am of the view that petitioner has not made any case for any interference by this Court. The writ petition is devoid of merits and the same is dismissed without any orders as to costs.

(SANDEEP V. MARNE, J.)