

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

WRIT PETITION NO.13975 OF 2019
WITH
CIVIL APPLICATION NO.128 OF 2022
IN
WRIT PETITION NO.13975 OF 2019
WITH
WRIT PETITION NO.4751 OF 2019

AMIT RAMESHKUMAR AGRAWAL
VERSUS
NIKITA AMIT AGRAWAL AND ANOTHER

...

Advocate for the Petitioner/husband : Shri P.R. Katneshwarkar h/f Shri
Vishwajit R. Jain (Kamboj)

Advocate for the Respondent/ wife : Shri Amit A. Yadkikar a/w Shri
Shyam Jawale, Shri Akshay Kulkarni and Shri Harshal Acharya

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CORAM: SMT. BHARATI H. DANGRE, J.

DATE :- 21st February, 2022

Per Court:

1. Both the Writ Petitions can be conveniently disposed of by the consent order.
2. These matters involve the discord between the husband and the wife, with a child aged about 15 years being automatically roped in. The proceedings arise out of the quantum of maintenance granted in favour of the wife and son.
3. It would be seen that the husband has instituted the

proceedings for divorce being HMP No.35/2017, which is pending for adjudication. The wife has instituted the proceedings under the Protection of Women from Domestic Violence Act, 2005, (for short “the DV Act”) before learned JMFC in the form of PWDVA No.228/2017 and simultaneously, she has filed Special Civil Suit No.146/2017 before the learned Civil Judge, Senior Division, Aurangabad under Sections 18 and 20 of the Hindu Adoption and Maintenance Act, claiming maintenance for herself and for her son.

4. Without going into detail nature of the proceedings, suffice it to say that the maintenance granted under the DV Act to the tune of Rs.50,000/- per month by order dated 26.03.2018 was set aside, since on 03.04.2018, the learned Civil Judge, Senior Division granted interim application filed by the wife and directed the husband to pay interim maintenance of Rs.75,000/- per month.

Being aggrieved by the said order, the husband filed Regular Civil Appeal before the learned District Judge, Aurangabad and since the appeal was found to be beyond limitation, it was accompanied with the application for condonation of delay, which came to be rejected and hence, the husband is before this Court in Writ Petition No.4751/2019.

5. As far as Writ Petition No.13975/2019 is concerned, the challenge in this petition is to the order of attachment of the salary of the husband.

6. Both these writ petitions are interlinked with one another and were directed to be clubbed together and to be heard so.

7. Pertinent to note that in Writ Petition No.13975/2019, this Court (Coram : Justice Ravindra V. Ghuge, J.), on 20.11.2019, had recorded the statement of the petitioner/ husband that he is ready to pay Rs.45,000/- per month without any default until further order. The statement of the petitioner to the effect that the amount of Rs.11,25,000/- has already been paid to the wife by way of interim maintenance, was also recorded.

In the wake of the aforesaid order passed on 20.11.2019, Shri Katneshwarkar, the learned advocate for the petitioner/ husband, makes a statement that the order is strictly adhered to and the amount of Rs.45,000/- is paid to the wife in terms of the said order.

8. The learned counsel for the respondent/ wife states that the wife has already filed a Civil Application on the basis that the amount of Rs.45,000/- as agreed amount is a misconception and it calls for enhancement.

In any case, the said submission, in my considered opinion, does not deserve any attention now since for the last two years, the husband is paying maintenance of Rs.45,000/- per month and the wife, except filing the application, has been receiving the said amount without any demur.

9. In Writ Petition No.4751/2019, the contention of Shri Katneshwarkar, the learned advocate for the petitioner/ husband, is to the effect that there is no provision under the Hindu Adoption and Maintenance Act for grant of interim maintenance and therefore, the order granting maintenance in favour of the wife itself is unsustainable.

Per contra, the learned counsel for the respondent/ wife states that by invoking Section 151 of the Code of Civil Procedure, the court can grant interim maintenance and that is how he supports the order.

10. However, since the parties arrive at a consensus, I need not deal with legal issues involved in the petitions and these petitions can be conveniently disposed of by the following order :-

(a) The petitioner/ husband and the respondent/ wife express their consensus to dispose of the proceedings in Special Civil Suit No.146/2017 pending before the learned Civil Judge, Senior Division, Aurangabad under Sections 18 and 20 of the Hindu Adoption and Maintenance Act, finally, on or before 30.09.2022. As such, the learned Civil Judge, Senior Division, Aurangabad, is directed to conclude the proceedings in SCS No.146/2017 on or before 30.09.2022.

Rival contentions of the parties are kept open and both the parties are at liberty to prosecute their case as they have set out in the suit.

Needless to state that, both the parties shall render their cooperation to the learned Judge in early disposal of the proceedings.

(b) Since the child is appearing for the ICSE examination for the year 2021-2022 and there is intimation that the examination will commence in the last week of April, 2022, the wife undertakes that she shall attend the proceedings of the Court on regular basis w.e.f. June, 2022 and the parties shall jointly make a request to the learned Judge for continuing the proceedings preferably on day to day basis.

(c) Till the suit is pending, the petitioner/ husband shall continue to make payment of Rs.60,000/- (Rupees Sixty Thousand) per month towards the maintenance of the wife and child, from 01.03.2022.

(d) The respondent/ wife has placed on record the relevant documents pertaining to the admission of a minor child in Choithram International School at Indore (Madhya Pradesh). Since the schedule of fees for his admission in the academic year 2022-2023 contemplates payment of fees of approximately Rs.3,25,000/- along with some ancillary heads, to meet the said expenditure, the petitioner/ husband shall contribute sum of Rs.2 lacs directly to the said School and he shall transmit the said amount in the name of the School, on or before 07.03.2022.

This contribution of Rs.2 lacs is out of the total sum of maintenance payable to the wife at the rate of Rs.60,000/- per month for

the months of March, April and May, 2022 plus topping of around Rs.20,000/-.

(e) Since the wife would be devoid of any money for maintaining herself and her son since the husband is contributing the amount by way of a lump sum payment of maintenance from March to May, 2022, the husband undertakes to pay the amount of Rs.20,000/- per month to the wife for these three months i.e. March to May, 2022.

(f) Since the petitioner/ husband has agreed to contribute in the aforesaid manner, the amount of maintenance payable for the months of June, July and August, 2022, shall suffer deduction of Rs.20,000/- and for these months, the wife will be entitled to receive Rs.40,000/- per month.

As far as month of September, 2022 is concerned, the wife is entitled for Rs.60,000/- per month.

11. With the aforesaid order being passed by consent, both these Writ Petitions are disposed of.

The pending Civil Applications do not survive and stand disposed of.