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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3664 OF 2018

Sudarshan Pentappa Mhantha & Anr.] .. Petitioners

vs.

Smt.Anuradha Krishna Mhantha & Ors.] .. Respondents

Mr.Prasad P. Kulkarni, for Petitioners.

Mr.R.S. Alange for Respondent Nos.1 to 3.

CORAM : N.R.BORKAR, J

DATE : 17TH FEBRUARY 2022

P.C.

1] This petition takes an exception to the order dated 24.01.2018 passed by the 2nd Civil Judge, Senior Division, Solapur below Exhibit 19 in Special Civil Suit No.218 of 2016.

2] The respondent Nos.1 to 3 in a suit for partition filed by them against the Petitioners, filed an application for interim maintenance in terms of Section 19 and 20 of the Hindu Adoption and Maintenance Act (for short "the act"). The trial Court allowed the said application by the order impugned and directed the present Petitioners to pay amount of Rs.3000/-each to respondent Nos.1 to 3 as interim maintenance.

3] I have heard learned counsel for the parties. The learned counsel for Petitioners submits that certain facts need to be proved by the party who seeks maintenance either under Section 19 or 20

of the Act. It is submitted that the trial Court, therefore, ought not to have entertained the application and ought to have directed the respondent Nos.1 to 3 to file independent suit for maintenance. It is further submitted that even otherwise the trial Court has not recorded any finding in terms of sub-section (2) of Section 19, while allowing the application.

4] On the other hand, the learned counsel for respondents supported the impugned order.

5] During the course of hearing, it transpired that the suit is at the stage of evidence and even part evidence is recorded.

6] Considering the fact that the suit is at the stage of evidence, I am not inclined to entertain the present Petition on merit against the order impugned after four years. As I am not entertaining the present petition as the Suit is at the stage of evidence, it would be appropriate to direct the trial Court to decide the Suit expeditiously. In the result, following order is passed :

i] Writ Petition is disposed of.

ii] The learned trial Court shall endeavour to decide the suit in question as expeditiously as possible, but in any case within one year from the date of receipt of copy of this order.

iii] I am told that the respondent Nos.1 to 3 have filed an application for enhancement of maintenance. Needless to mention that the trial Court shall not entertain the application filed by respondent Nos.1 to 3 in relation to enhancement of interim maintenance.

[N.R.BORKAR, J]