

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1334 OF 2022

Ajit Arun Chaudhary .. Petitioner
Versus
Seema Ajit Chaudhary and anr .. Respondents

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Mr. Vaibhav Ugle with Vikas Somawanshi with Roshan Chavan
for the petitioner.

CORAM: BHARATI DANGRE, J.

DATED : 17th JUNE, 2022

P.C:-

1 The petitioner husband raise a challenge to the order passed by the Family Court, Pune in Petition No. E-97/2015, directing him to pay maintenance @ Rs.4,000/- per month to his two children i.e. respondent nos.2 and 3 from the date of filing of the petition.

2 Application filed u/s.125 of Cr.P.C, allege that the husband was not maintaining the wife and their two children, who were unable to maintain themselves. In contrast, it was stated that he was working as Supervisor with a builder and earning amount of Rs.35,000/- to 40,000/- p.m, and there is no

person dependent on him. The respondent wife admitted that she was earning a sum of Rs.8,000/- p.m, but pleaded that the said amount was insufficient to maintain herself and her two children, who were aged 20 and 14 respectively.

2 The claim in the Application was contested by the husband, on the ground that he has never refused to maintain the wife and children and pleading that it is also the responsibility of the father to maintain the children, the claim was denied. Further, there was also denial about his earnings to the tune of Rs.35,000/- to Rs.40,000/- p.m, is pleaded, and on the contrary, it was submitted that he was getting a sum of Rs.8,000/- p.m, though it was admitted that in the year 2005, as he had undertaken the work as a centering contractor, he earned an income of Rs.25,000/- to Rs.30,000/- p.m.

3 Considering the rival claim placed before it, the learned Family Court proceeded to determine the issue whether the petitioners had proved that the respondent is having sufficient needs to provide maintenance to them and whether they have been able to prove that they are able to maintain themselves.

In determining the said claim, the Family Court excluded the applicant no.1 i.e. the wife, since she had her own earnings of Rs.8,000/- p.m, and she had specifically admitted so in her affidavit of examination in chief.

4 Coming to the claim of the applicant nos.2 and 3 i.e.

children and while denying the claim of their need as against the earnings of their father, the Family Court in its long discussion has referred to the life style, and has assumed that since once upon a time, he had earnings of Rs.35,000/- to Rs.40,000/- p.m, it cannot be assumed that since he was continuing to work as a Supervisor, his income should have been lesser than that. In any case, it was held by the Family Court that he had sufficient means of providing maintenance to the children and therefore, issue no.1 was answered in the affirmative.

As far as the need of the children and the factor which made them entitle to claim maintenance of their father, being they not having independent source of income and were unable to maintain themselves, was worked out in their favour and considering the income of the husband, approximately to be Rs.25,000/- p.m, the Family Court directed sum of Rs.4,000/- per month to be paid to the two children i.e. applicant nos.2 & 3.

Learned counsel for the petitioner, by relying upon some posts posted by his daughter on the Facebook, submit that she has now secured a job, when asked to render any proof about her maintenance, he state that he is unable to do so.

Mere posting on the Facebook Account that the girl has got a job, is no proof of her earnings. It was specifically pleaded in the application that the daughter and the son who are pursuing their education need the amount to meet their

educational expenses and also day to day expenses and with the meager income of the wife, she is not able to contribute much, since she was duty bound to take care of the day-to-day expenses.

5 I find no perversity and illegality in the impugned order which is based on the evidence that is brought on record, and in any case, the amount of Rs.4,000/- cannot be said to be exorbitant particularly, when it is the responsibility of the father to maintain his children who are unable to maintain themselves.

Upholding the impugned order, the Writ Petition is dismissed.

The petitioner shall deposit the arrears of the amount arising out of the order dated 1/10/2021 within a period of three months from today in the Family Court.

(SMT. BHARATI DANGRE, J.)