

PMB

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.4491 OF 2018

Nandamitra Vinayak Pawar ..Petitioner
vs.
Sanjivani Nandmitra Pawar ..Respondent

Mr. Raj Jayasing Khude for petitioner.
Mr. Hemant Ghadigaonkar for respondent.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 14, 2022.

P.C. :

1. Heard learned counsel for the parties.
2. The challenge in this writ petition is to an order dated 14.12.2017 passed by the trial Court granting maintenance of Rs.20,000/- to the wife from the date of the application i.e. 10.10.2015 till final disposal of the Hindu Marriage Petition No.211 of 2015. Further, the trial Court directed that the petitioner-husband shall pay the education expenses of the younger daughter from the date of the application i.e. 10.10.2015 till final disposal of the Hindu Marriage Petition No.211 of 2015. The application for maintenance was filed by the wife contending that she should be granted interim maintenance of Rs.1,50,000/- per month. The trial Court granted interim maintenance of Rs.20,000/- to the wife and further sums towards the

educational expenses of the younger daughter.

3. Learned counsel for the husband contended that the wife was earning around Rs.43,000/- per month at the time when the application came to be filed and presently she is earning around Rs.60,000/- per month. It is further submitted that the husband after all deductions is earning around Rs.84,000/- per month. Learned counsel for the petitioner submitted that if from this amount of Rs.84,000/-, a sum of Rs.20,000/- and further sums are paid towards educational expenses of the younger daughter, he would have nothing left in his hand. According to him, the order passed by the trial Court is harsh and unreasonable. Learned counsel submitted that the wife is earning a handsome salary and she should contribute to the educational expenses of her daughter and moreover she is in a position to maintain herself. It is further submitted that from the arrears towards maintenance of the wife and educational expenses, an amount of Rs.19,77,000/- is already paid and the balance arrears are to the tune of Rs.13,58,837/-. Learned counsel submitted that it is becoming difficult for the husband to pay the maintenance and now the elder daughter is settled in U.S. earning a handsome salary. It is further submitted that the husband and wife are both living in the same premises maintained by the petitioner-husband and therefore in his submission the wife does not even have to pay for her residence as well as that of her daughter, in which case she can share the

educational expenses.

4. Learned counsel for the respondent on the other hand supported the impugned order.

5. I have gone through the impugned order. No doubt, the wife at the relevant time was earning around Rs.43,000/- per month. The wife is working as a teacher in the school. The husband is working as a Senior Manager with Pawan Hans Limited and drawing a salary of approximately of Rs.2,00,000/- per month. Even according to the learned counsel the petitioner, the salary he takes home after deduction is Rs.84,000/- per month. The trial Court, considering that the elder daughter was employed in I.T. Firm M.N.C. at Pune, refused to grant any maintenance to her. The trial Court observed that the husband has to maintain himself and his parents and he has to pay the housing loan from his salary. Taking an overall view of the matter, though the wife claimed the maintenance of Rs.1,50,000/- per month, the trial Court was of the opinion that an amount of Rs.20,000/- was reasonable. Further what has been granted by the trial Court is educational expenses of the younger daughter.

6. It is the responsibility of the husband to maintain his wife and the younger daughter. The husband is drawing a handsome salary. It is in view of the fact that the wife is drawing a salary of Rs.43,000/-, that the trial Court was of the opinion that interim maintenance of Rs.20,000/- per month to her would meet the ends of justice. Learned

counsel for the husband submitted that in the application for interim maintenance wife claimed maintenance only for herself and not for the daughters. A reading of the averments made in the application reveals that the wife had claimed maintenance for herself and her daughters as well. It is specifically stated in the application that it is the legal and moral duty of the husband to fulfill his obligation towards the wife and the children. The objection of learned counsel can only be said to be technical and cannot come in the way of substantive justice.

7. The parties are residing in Vashi. The younger daughter is presently pursuing a Masters course in Fashion Designing in a College in Mumbai. No doubt, this is subsequent event, but considering the cost living in Mumbai and having regard to the salary which is earned by the wife, if the trial Court was of the opinion that the wife could be given maintenance of Rs.20,000/- per month and the husband provide for educational expenses of the younger daughter, I do not find any perversity in such view of the trial Court.

8. The writ petition is disposed of. No costs.

(M. S. KARNIK, J.)