

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL WRIT PETITION NO. 2197 OF 2022**

Swapnil Suresh Supekar

....Petitioner

Versus

Sou. Pritee Swapnil Supekar

....Respondent

Mr. Ranji M. Pawar i/b. Mr. Priyal Sarda, Advocate for the
Petitioner.

Mr. Nitesh S. Nevshe, Advocate for the Respondent

CORAM : S. G. DIGE, J.

DATE : 7th DECEMBER, 2022.

P.C. :

1. Heard learned counsel for the petitioner and learned
counsel for the respondent.

2. Learned counsel for the petitioner submits that the Family
Court has granted maintenance of Rs.1,00,000/- per month to the
respondent – wife on the ground that the petitioner has failed to file
an affidavit of assets and liabilities before the family court within
stipulated time. He submitted that the order passed by the trial court
is arbitrary and without considering the merits. Hence, requested to
remand the matter for giving an opportunity to the petitioner to
contest the matter.

SHUBHADA
SHANKAR
KADAM

Digitally signed
by SHUBHADA
SHANKAR
KADAM
Date: 2022.12.12
10:42:10 +0530

3. Learned counsel for the respondent submits that sufficient opportunities were given to the petitioner to file affidavit but petitioner failed to file the affidavit within the stipulated time, therefore, the order passed by the trial court is legal and valid. Hence, requested to dismiss the petition.

4. I have heard learned counsel for the petitioner and learned counsel for the respondent, perused the order passed by the Family Court at Pune below Exhibit 25. In the order, the Family Court has observed that the respondent – husband, petitioner herein did not submit his affidavit of assets and liabilities despite receiving the affidavit of the petitioner -wife, (respondent herein) and the respondent-husband is delaying the matter, there appears substance in the contention of the petitioner about her expenses and about their standard of living. The Family Court further observed that the respondent-husband has suppressed the material fact about his own income and expenses, therefore, the petitioner -wife is entitled for temporary maintenance as claimed by her. Accordingly, the Family Court has granted maintenance of Rs.1,00,000/- to the petitioner-wife i.e. respondent herein.

5. In my view, it is necessary to give fair opportunity to the petitioner to put his side in respect of the maintenance application filed by the respondent-wife. Hence, I pass the following order :

1. The order passed by the Family Court, Pune, below Exhibit 25 in P.A.No.178 of 2021 is hereby quashed and set-aside. The matter is remanded back to the Family Court at Pune for fresh hearing.
2. The petitioner shall file an affidavit of assets and liabilities before the Family Court within two weeks from receipt of this order. If the petitioner fails to file the affidavit, the Family Court shall proceed with the matter on its own merits.
3. The petitioner shall pay cost of Rs.3000/- to the respondent on or before the next date.

The writ petition stands disposed of in the above terms.

6. The fees of the learned counsel appointed on behalf of the respondent shall be paid as per High Court Legal Aid Services Rules.

(S. G. DIGE, J.)