

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6920 OF 2021

Shri. Santosh Rangnath Waghmode ...Petitioner
Vs.
Sou.Savita Sanotsh Waghmode
Thr. Appasaheb Babu Chopde ... Respondent

Mr.Amit Kumar D. Sale for the Petitioner.
Mr.Wasim N. Samlewale for the Respondent.

CORAM : C.V. BHADANG, J.

DATE : 18 AUGUST 2022

P.C.

. The challenge in this Petition is to the order dated 15 January 2021 passed by the learned Judge of the Family Court at Sangli, below Application Exhibit-23 in Petition No.A-351/2020.

2. The Petitioner has filed the aforesaid Petition against the Respondent-Wife for dissolution of their marriage, *inter alia* on the ground that the Respondent-Wife is living in adultery.

3. The Respondent-Wife filed an Application under Section 24 of the Hindu Marriage Act seeking interim maintenance. The Respondent-Wife claimed maintenance of

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Rs.25,000/- per month for herself and Rs.15,000/- per month each for two children borne out of the wedlock.

4. The Family Court by the impugned order has granted maintenance of Rs.9,000/- per month to the Respondent and Rs.4,000/- per month each to the children. Thus a total amount of Rs.17,000/- per month has been awarded as maintenance.

5. I have heard learned counsel for the parties. Perused record.

6. It is submitted by the learned counsel for the Petitioner that since prior to the marriage the parties are closely related as the mother of the Petitioner, is the paternal aunt of the Respondent. It is submitted that the Respondent is staying with the mother of the Petitioner. It is further submitted that the Petitioner has incurred expenses of the School fees and other expenses related to the education of the children.

7. The learned counsel pointed out the Salary Certificate dated 20 February 2021 of the Petitioner who is serving as a Assistant Teacher in Bhai Dajiba Desai Vidyalay, Parle, Taluka-Chandgad, District-Kolhapur. It is submitted that there are substantial deductions towards LIC premium in respect of an LIC policy, in which the Respondent is a nominee.

Secondly, it is submitted that the Petitioner has incurred various loans including for the construction of the house from the Credit Society and after the deduction there is no sufficient income so as to pay the maintenance as ordered. It is submitted that the Petitioner is unable to cultivate the agricultural lands on account of the fact that the lands are in Sangli District and the Petitioner is serving in Kolhapur District. The lands are dry crop land there is no income from the agricultural lands. Except these there are no other contentions raised.

8. The learned counsel for the Respondent placing reliance on the decision of the Supreme Court in *Dr.Kulbhushan Kumar V/s. Smt. Raj Kumari & Anr.*¹ and the decision of the Punjab and Haryana High Court in *Seema and Another V/s. Gourav Juneja*², has submitted that the Petitioner cannot avoid responsibility to pay maintenance on the ground of the deductions.

9. It is submitted that the Salary Certificate is of February 2021 and by this time substantial amount of the loan ought to have been repaid thereby reducing the deductions towards such loans.

1 1970(3) Supreme Court Cases 129

2 2018 SCC Online P & H 3045

10. I have considered the submissions made. The Petitioner has produced the Salary Certificate dated 20 February 2021 which shows that the Petitioner is earning gross salary of Rs.73,525/-. The deductions are to the extent of Rs.6,356/- towards LIC premium. The deduction on account of the repayment of the loans from the credit society is shown to be Rs.46,500/-. A certificate dated 20 February 2021 from the Credit Society has been enclosed which shows that the Petitioner had availed a loan of Rs.14 Lakhs for construction of house and as on February 2021 an amount of Rs.3,81,800/- has been shown to be repaid. There ought to be further repayment towards the loan during this period thereby substantially reducing the deduction towards such loan. As noticed earlier gross salary drawn by the Petitioner is Rs.73,525/- as on 20 February 2021.

11. Looking to the quantum granted to the Respondent-Wife and children, it cannot be said to be on the higher side looking to living expenses. The children are aged about 10 and 12 years respectively. The Petitioner has not produced any documents to show that the Petitioner has paid School fees or has incurred incidental expenses of the children on their education.

12. A learned Single Judge of the Punjab and Haryana High Court in case of *Seema (Supra)* has held that the husband cannot be allowed to evade his responsibility of paying

maintenance to his wife and the minor children, on the ground of the payment of the EMI's on the loan which are obtained by the husband.

13. I have gone through the impugned order. The impugned order does not exhibit any infirmity, so as to require interference. The Petition is without any merit and is accordingly dismissed, with no order as to costs.

C.V. BHADANG, J.