

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3713 OF 2022
ALONG WITH
INTERIM APPLICATION NO.3361 OF 2022

Aditi Dinesh Chandel] ... Petitioner

Vs.

Dinesh Kumar Chandel] ... Respondent

ALONG WITH
WRIT PETITION NO.1705 OF 2019

Aditi Dinesh Chandel] ... Petitioner

Vs.

Dinesh Kumar Chandel] ... Respondent

ALONG WITH
WRIT PETITION NO.1967 OF 2020
ALONG WITH
WRIT PETITION NO.4058 OF 2019
ALONG WITH
WRIT PETITION NO.9319 OF 2019
ALONG WITH

WRIT PETITION NO.13794 OF 2018
ALONG WITH
WRIT PETITION NO.14750 OF 2018

Dinesh Kumar Chandel] ... Petitioner

Vs.

Aditi Dinesh Chandel] ... Respondent

...

Mr. Abhijit Sarwate with Mr. Ajinkya M. Udane for the petitioner in Writ Petition No.3713 of 2022 and Writ Petition No.1705 of 2019.

Mr. R.D. Soni for the petitioner in Writ Petition No.4058 of 2018.

Mr. Bhushan Kulkarni for the petitioner in Writ Petition No.1967 of 2020, Writ Petition No.9319 of 2019, Writ Petition No.13794 of 2018 and Writ Petition No.14750 of 2018.

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CORAM : SMT. BHARATI DANGRE, J.

DATED : 01ST JULY, 2022.

P.C.:-

1. The present writ petitions deserve to be disposed off with a consensus being arrived at, between the petitioner-wife and the respondent-husband and their respective counsel, who have extensively argued the writ petitions before me.

2. The present order is passed in the backdrop of certain facts, to which I will be making a reference to the bare minimum.

The petitioner is the wife, who has instituted the proceedings before the Family Court by filing a petition for divorce, invoking Section 13(1)(ia) of the Hindu Marriage Act on 14/12/2015, in which she *inter alia* prayed for permanent alimony, maintenance and permanent custody of her minor daughter.

3. In this petition, she filed an application below Exh.-24 on 13/06/2016 under Section 24 and 26 of the Hindu Marriage Act seeking interim maintenance. The said application was allowed on 30/06/2017 by the learned Judge, Family Court, Pune and directions were issued to the respondent-husband to pay interim maintenance of Rs.30,000/- per month to the wife and Rs.20,000/- per month to the child.

4. This order came to be modified on 04/02/2020 by the Family Court directing the husband to pay Rs.30,000/- per month to the wife from the date of application until for a period of six months from the date of the said order, reserving the liberty to the petitioner to make a fresh application under Section 24 of the Hindu Marriage Act after a period of six months. The said order is passed on 04/02/2020.

5. Upon the liberty conferred upon the wife, she filed a fresh application under Section 24 and 26 of the Hindu Marriage Act on 15/12/2020 wherein, in the wake of the change in the circumstances, she sought a direction for interim maintenance of Rs.55,000/- per month for herself and, in addition to the maintenance of Rs.20,000/- per month, she also claimed educational expenses for the child. It was also prayed that on account of inflation, the amount of maintenance of the child shall be increased by 10% to 12% every year.

6. The petition filed by the wife is pending before the Family Court, Pune and, even the application filed by her on 15/12/2020 was also not taken up for hearing. This application was pressed into service by the petitioner along with an application filed by the respondent-husband vide Exh.-911, seeking cancellation of order of maintenance, on the pretext that the order was passed by playing fraud. I do not intend to deliberate on the merits of the application and its maintainability, but suffice it to say that both the applications came before the Family Court on 25/01/2022. It is to be noted that by this date, the proceedings before the Family Court in the HMP Petition had advanced and, on 17/01/2022, the petitioner-wife has filed a purshis saying that she does not wish to lead any further oral evidence.

7. Before the evidence could be closed, on 28/10/2021 the

petitioner had filed an application by pleading that since the respondent had failed to file an affidavit of income and assets, despite repeated orders being passed, she was desirous of examining certain witnesses to bring on record certain documents. The documents which were sought from different entities were enlisted in the said application and a prayer was made to issue summons to the witnesses, directing them to bring certain documents. This included the Branch Managers of HDFC Bank, HDFC Limited (Loans), HDFC Limited (Auctioned property), HDFC Securities Limited and HDFC Life. Summonses were also sought to be issued to the Income Tax Officer for bringing the Income Tax Returns of the respondent-husband.

8. The Rozanamas placed on record would clearly reveal that on 23/02/2022, the final written notes of arguments were filed by the petitioner and even the respondent, filed his written notes of arguments.

Various documents which were sought to be brought on record, also came on record on distinct dates and the proceedings would make a reference to the said documents and as and when they were brought on record, they came to be exhibited. This included the documents in the form of statements of Saving Bank Account, Demat Account and Credit Card of the respondent. The Income Tax Returns of the respondent were also came on record, except the latest Income Tax Returns.

Learned counsel fairly states that with reference to his application at Exh.-973 seeking the documents to be brought on record, the Branch Manager of HDFC Bank has produced all the desired documents on record and now he is waiting only for the document from the Branch Manager of HDFC Loans, HDFC Limited, HDFC Securities Limited. As far as HDFC Securities Limited is concerned, since the address provided by the petitioner was incorrect, a fresh address has been given and the application for fresh summons is pending before the Family Court. Learned counsel states that the other two entities have also not responded to the summons issued to them. As far as the documents sought from HDFC Life is concerned, who was the employer of the respondent, learned counsel for the petitioner Mr. Sarwate fairly states that he does not desire to press for production of the documents sought by him from the said authority under caption (a) to (g).

9. As far as the Income Tax Returns are concerned, the parties are at variance as to whether all the Income Tax Returns have come on record and, in any case, some of the Income Tax Returns have come on record and the same can be dealt with in an appropriate manner.

10. The respective counsel, in the presence of the parties, are agreeable that the proceedings, which are instituted in the year 2015 deserve a disposal at the earliest. As can be seen from the

Rozanamas, the written notes of arguments are already on record. The petitioner is, however, awaiting for the documents, in order to substantiate the earnings of her husband. Though the summonses are issued to the concerned officers, it cannot be expected that the Family Court shall wait for the production, for unlimited period of time. Now, the documents are required only from the Branch Manager of HDFC Bank (Loans), HDFC (Auctioned Property) and HDFC Securities Limited. Let the learned Family Court Judge issue fresh summonses to these entities forthwith and await for their response for a period of four weeks. This would include notice to HDFC Securities on the new address. If no response come from these entities, the learned Judge shall proceed with the petition, with an assumption that the authorities are not interested in bringing the documents on record.

11. As far as the Income Tax Returns are concerned, it is the submission of learned counsel for the respondent-husband that all the Income Tax Returns are already on record. The learned Judge shall verify the same, and if they are not found on record, the respondent shall produce them on record. At this stage, the respondent, who is present in the court makes a statement that he has not filed Income Tax Returns from the year 2011 onwards. Let the necessary affidavit to that effect be placed on record, which the Family Court is entitled to verify.

12. With the documents, which are already on record and those documents coming before the court within one month, or in the event nothing comes forward, in its absence, the Family Court shall permit the respective parties to file their written notes of arguments limited to the documents, which will be brought on record. If no documents come on record, the said liberty can be curtailed by the Family Court.

13. Needless to state that while disposing of the main petition, the Family Court is requested to decide the pending applications including the application for interim maintenance filed by wife as well as the application filed by the respondent-husband vide Exh.-911 and Exh.-918. Since the order passed in the said applications are also questioned here, the learned Judge, Family Court, Pune is directed to conclude the proceedings in Petition No. P. A.1414 of 2015 along with the applications as directed above, in any case, within a period of two months from today.

14. Learned counsel for the parties have expressed their consensus that they shall render their co-operation to determine the issues involved in the petition as well as in the applications. While determining the issues, the learned Judge shall also determine upon the issues of arrears of maintenance.

The Family Court is at liberty to receive the documents sought by the petitioner, if they are brought on record within a period of one month. However, the court

shall not permit examination of any witnesses, by either side.

15. In the wake of the above, the writ petitions and pending applications therein are disposed off in the aforesaid terms.

[SMT. BHARATI DANGRE, J.]