

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4966 OF 2022**

Amarjit Singh Kohli

.. Petitioner

Versus

Kamaljit Kaur Kohli

.. Respondent

Nityoah Mehta a/w Ruchi Turakia i/b Nityoah Suneel & Assoc for
Petitioner

Amanjot Anand i/b H.S. Anand & Assoc. for the respondent

CORAM: BHARATI DANGRE, J.

DATED : 15th JULY, 2022

P.C:-

1. Heard learned counsel for the petitioner and learned counsel for the respondent, who has put his appearance pursuant to the notice issued. The petitioner is aggrieved by order passed by the Family Court Mumbai, on 9/02/2021 below exhibit 6.

2 The short point on which the order deserves to be set aside is, the petitioner husband (the present petitioner before me) was shown to be absent, when the order was passed.

3 The Learned Judge heard the counsel for the respondent wife and accepted the submission about the earnings of the husband and by recording that the application is pending since 2017 directed payment of adhoc maintenance.

4 The order has been given effect from 13/07/2017.

It is not disputed that the order has been passed exparte, without considering the contention/submission of the petitioner husband. Since it is passed in violation of principle of natural justice

the impugned order deserve to be set aside. This is, however, subject to two stipulations; i.e. first being that the petitioner husband shall deposit an amount of 2,00,000/- be made over by the petitioner husband to the respondent wife being deposited before the Family Court Mumbai, within a period of 10 days from today, and the respondent wife shall be permitted to withdraw the said amount by the Family Court.

5 The second stipulation being that, the Family Court, Mumbai, shall decide the application on hearing the petitioner husband and pass appropriate orders, by taking into consideration the parameters laid down by Hon'ble Apex Court in ***Rajnish vs. Neha AIR 2021 SC 569*** and by considering the disclosure affidavits of both the parties. The application shall be determined within period of 1 month from today, since the learned Judge has already recorded that it is pending since 2017. This is, however, subject to a condition that the respondent wife shall file her disclosure affidavit within a period of one week from today, as the counsel for the petitioner husband submit that he has already placed the said affidavit on record.

6 Needless to say that I have not expressed any opinion on the merits of the matter and restricted myself to decide the present petition.

The petition is disposed off in the above terms.

(SMT. BHARATI DANGRE, J.)