

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

WRIT PETITION NO.35 OF 2022

Sagar Dhondiram Otari

..... Petitioner

Versus

Dr. Kunda Sagar Otari

.... Respondent

Mr. Dnyanesh Patil, Advocate i/b. Aditya S. Raktade, for the
Petitioner.

CORAM :SARANG V. KOTWAL, J.

DATE : 25th FEBRUARY, 2022

P.C. :

1. The Petition is filed challenging the order dated 5.8.2021 passed by the 8th Jt. Civil Judge, Senior Division at Sangli below Exhibit-12 in Marriage Petition No.333/2020. Vide that order, the respondent-wife was granted interim maintenance of Rs.7,000/- per month under Section 24 of the Hindu Marriage Act.

2. The respondent-wife had filed Exhibit-12 in Hindu Marriage Petition No.333/2020 before the said Court. In that application, she had mentioned that she had got married with the petitioner-husband on 16.12.2004. They had a son from that marriage. The son was born on 8.7.2007. After a few days of marriage, the petitioner-husband started causing mental and

physical harassment to the wife. The husband was in the business of silver, but, he did not carry out the business diligently. The wife started working in a private dispensary. It is her case that she had suffered from breast cancer and at that time her father had spent for her treatment. According to the wife, the husband went to her workplace and made some allegations because of which she had lost her job. At the time of making that application she was residing with her parents and was dependent on them. She was residing with her parents from 5.4.2017. The husband has not made any provision for her maintenance. He was working as a Psychotherapist and he has his dispensary. He was earning Rs.1 Lakh and, therefore, the wife had asked for maintenance of Rs.25,000/- per month.

3. The husband denied all these contentions. According to him the son was staying with him. The wife was BHMS Doctor. She was working in a private hospital as Medical Officer. She also has independent practice. She was earning Rs.17,000/- from her job and Rs.20,000/- from her medical practice. She also was earning Rs.50,000/- as commission for sending patients to other dispensaries. Thus, she was earning

around Rs.52,000/-. His income was only Rs.13,000/- per month. His mother and son were dependent on him. He had suffered losses because of floods in the year 2019 and he has loan of Rs.2 Lakhs to be paid. Therefore, he expressed his inability to pay the maintenance. Instead he asked Rs.15,000/- per month as maintenance for their son.

4. Learned counsel for the petitioner submitted that the petitioner-husband had suffered huge losses during the flood in the year 2019. His documents, laptop, furniture etc. were damaged. He had to borrow loan which has still remained unpaid. He is earning hardly Rs.13,000/- and the wife was a doctor and was earning sufficiently. Therefore, the order passed by the trial Court needs to be set aside.

5. I have considered these submissions. The learned Judge has given valid reasons for granting maintenance amount. It was observed that the contention of the petitioner that the respondent-wife had tendered her affidavit subsequent to filing of her application has not caused any prejudice to the husband. Therefore, learned Judge has taken that affidavit into consideration. The wife had produced her resignation letter

which shows that from June, 2019 onwards she was not working. This contention has remained practically unchallenged.

6. The learned Judge did not believe the petitioner's contention that he was earning Rs.13,000/- only. His own expenses were more than that amount. Therefore, learned Judge rightly disbelieved his contention.

7. Considering all the circumstances, the learned trial Judge has fixed the interim maintenance at Rs.7,000/-. I agree with the reasons given by learned trial Judge. There is no reason to interfere with that order. The maintenance amount is also on the lower side. There is nothing to show that the wife is earning sufficiently to maintain herself. Therefore, I see no reason to interfere with the impugned order. The Petition is accordingly dismissed.

(SARANG V. KOTWAL, J.)