

Urmila Ingale

Digitally
signed by
URMILA
PRAMOD
INGALE
Date:
2022.10.17
20:12:58
+0530

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

CIVIL REVISION APPLICATION NO. 75 OF 2022

Mr. Gautam Shrirang Waghmare .. Applicant
VS.
Mrs. Sushma Gautam Waghmare ..Respondent

Mr. Anil N. Jadhav, for Applicant.
None for the Respondent.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 14, 2022

P.C. :

1. Heard learned counsel for the applicant. The challenge in this civil revision application filed under section 115 of the Code of Civil Procedure, 1908 is to an order dated 15/09/2021 passed by the 4th Family Court, Pune.

2. The Family Court by the impugned order passed under Exhibit 21 granted maintenance of Rs.10,000/- (Rs. 5,000/- to the wife and Rs. 5,000/- to the minor son till he attains majority). It is the contention of the learned counsel for the applicant that the husband is working as a

staff driver in the Employees' State Insurance Corporation Department and drawing monthly basic salary of Rs. 32,000/- with total emoluments of Rs. 54,510/-. It is submitted that after deductions, he is left with only an amount of Rs. 24,874/-. He submitted that the applicant's mother is aged and he has to look after her. Moreover, it is submitted that the applicant is taking care of educational expenses of the minor son. Learned counsel submitted that if an amount of Rs.10,000/- per month is deducted, there is hardly any amount left for the applicant to pay for his expenses. According to learned counsel, all these factors have not been taken into consideration by the trial Court. Learned counsel further submitted that the respondent-wife is working and earning well. He submits that this civil revision application should be proceeded ex parte against the respondent as despite notice, she had not appeared.

3. I have gone through the impugned order. I have gone through the salary slip of the husband for the month of September 2022. From the total emoluments of Rs.54510/-, an amount of Rs.20,500/- is being deducted

which is towards the housing loan that the applicant had taken. The amount of Rs.2,000/- and an amount of Rs.6,575/- is deducted towards GPF. Total recovery is shown as Rs.9,136/-. There is nothing on record to indicate as to how much the wife is earning. It is only stated that she is working and getting salary.

4. The trial Court, after considering the entire materials on record and the pay slip produced, was of the opinion that the net salary of the applicant comes to around Rs.32,666/- per month, 1/3rd of which comes to around Rs.10,000/-. The trial Court has taken into consideration that the respondent-wife suppressed the material information about her expenses and income. The trial Court took into consideration the fact that the applicant has paid for the school fees of their son and therefore passed an order for payment of maintenance only from the date of the order i.e. 15/09/2001. This was so ordered to wash out the possibility of adjusting the amount already paid by the applicant for the maintenance of the respondent and their son. It is further observed that the applicant failed to prove

that at present the respondent is gainfully employed. Even now there is no material on record to show that the respondent is gainfully employed. The trial Court has also observed that as the respondent is quite qualified and found her able to earn, granted maintenance of only of Rs.5,000/- to her.

5. Taking an overall view of the matter, I do not find any perversity in the view taken by the trial Court granting maintenance of Rs.10,000/- to the wife and minor child. The civil revision application is dismissed.

(M. S. KARNIK, J.)