

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.499/2020

Sou. Apeksha Tayade V Satish Tayade

Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.

Court's or Judge's Orders

Mr. A.G. Agrawal, Advocate for petitioner.
 Mr. K.D. Shukla, Advocate for respondent.

CORAM : AVINASH G. GHAROTE, J.
DATE : 03-08-2022

Mr. Shukla, learned Counsel for the respondent submits that all the arrears of maintenance have been cleared till June 2022. Which position is agreeable to Mr Agrawal, learned counsel for the petitioner.

2. The learned counsel for the respondent, makes a statement that, the respondent is not willing for enhancement of compensation and the matter can be decided on merit.

3. Heard Mr. Agrawal, learned Counsel for the petitioner and Mr. Shukla, learned Counsel for the respondent.

4. This Petition is filed being aggrieved by the order dated 02-04-2019, whereby the petitioner has been granted maintenance @ of Rs.2000 /-pm.

5. Mr. Agrawal, learned counsel for the petitioner submits that the father of the respondent, is an agriculturist holding 0.81R land at village Talegaon (Shyamjipant) and is also owning a Scorpio vehicle as well as house at Talegaon (Shyamjipant) and since the age of the father of the respondent is around 70 years, is managing all the affairs and derive agriculture income. It is submitted that affidavit denying the same is merely an eyewash and therefore the maintenance amount can be granted to the petitioner being very meager, is required to be enhanced.

6. The respondent is uneducated having failed in his 10th standard as well as in Polytechnic (First Year). It is an admitted positions that on account of this he is unable to secure any employment and is dependent upon the mercy of his father. It is submitted that the petitioner is already earning substantially in as much as she is working with a private contractor in Solar Industries as a worker and is getting gross wages of Rs. 8000/- pm which after deduction of provident fund, gratuity, holidays etc. comes around to Rs.6000/- to 7000/- pm and therefore the petitioner being well off than the respondent, there is no need of any enhancement.

7. The fact that the petitioner is working with the private contractor in Solar Industries and having a gross wages of Rs.8400/- and take home wage of Rs.6000/- to Rs.7000/- pm, is an admitted position in view of the affidavit of the petitioner dated

24-03-2022.

8. Though it is contended that, the father of the respondent is having agricultural land, which is cultivable nothing has been brought on record to indicate this. Though, the 7/12 is a public document available on the official website, the same has not been placed on record. The further contention of the father of the respondent owning a Scorpio vehicle from which he is deriving the income is also not substantiated as no documents indicating the ownership of the vehicle has been placed on record. Except for a bare affidavit, there is nothing on record to arrive at any source of income of the respondent.

9. As indicated above, though the documents were available in the public domain regarding the allegations made absence of placing them on record, would indicate lack of bonafides on the part of the petitioner. Therefore, in absence of any material on record to indicate the income of the respondent, I do not find any reason to interfere in the impugned order. The petition is, accordingly, dismissed. No costs.

3.

(Avinash G. Gharote, J.)