

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

WRIT PETITION NO. 1171 OF 2022

Motiram Nilkanth Sonkusre

..VS..

Simaran d/o Motiram Sonkusare and anr.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.M. Bahirwar, Advocate for the petitioner.

CORAM : ROHIT B. DEO, J.

DATED : 01/03/2022.

The petition is preferred by the father Mr. Motiram Sonkusare, who is aggrieved by the order dated 10.01.2022 rendered by the Judge, Family Court No.4, Nagpur in petition under Section 18 of the Hindu Adoption and Maintenance Act ('the Act'), which is preferred by the two children of the petitioner, whereby the petitioner is directed to deposit the installments of the College fees of one of the children – Simaran. The operative part of the order impugned reads thus :

“ORDER

1] Applications (Exh.10 and 18) are allowed.

2] The respondent is hereby directed either to deposit installments of the college fees in Engineering college of Sandip University, Nashik or directly pay installment of said amount as follows to petitioner No.1.

i] First installment of Rs.42,000/- on or before 15.01.2022.

ii] Second installment of Rs.42,000/- till 12.02.2022.

iii] Third installment of Rs.36,000/- till 8.03.2022.

3] The order dictated and pronounced in open Court.”

2. The learned Judge of the Family Court has observed that the income certificate shows that yearly income of the respondent - father for the year 2020-21 was Rs.8,83,800/- (Rupees Eight Lakh Eighty Three Thousand and Eight Hundred Only) and that the respondent is avoiding to pay the college fees of Simaran. The relevant consideration of the learned Judge reads thus :

“3. On perusal of petition and written statement (Exh.16) filed by respondent, it reveals that admittedly, petitioner No.1 and 2 are the daughters of respondent. Admittedly, on 26.04.2017, divorce was taken place between the parents of petitioners, as per the decree of divorce by mutual consent. The petitioners specifically contented that respondent agreed to bear the expenses of education and accordingly, he paid Rs.10,000/- for the admission of petitioner No.1. However, respondent is avoiding to pay remaining balance fees of Rs.1,20,000/-. It appears that petitioner No.1 has taken admission in engineering collage of Sandip University, Nashik. As per the Circular issued by the collage, it is necessary to deposit remaining fees i.e. first installment of Rs.42,000/- on or before 15.01.2022, second installment of Rs.42,000/- till 12.02.2022 and third installment of Rs.36,000/- till 08.03.2022. The respondent is the father of the petitioner. The income certificate issued by the Tahsildar, Sindhewahi shows that yearly income of the respondent for the year 2020-21 was Rs.8,83,800/-. It means, respondent has sufficient source of income to bear the educational expenses of his daughter. However, it appears that he is avoiding to pay the collage fees of petitioner. In such circumstances, if respondent will not pay the collage fees of petitioner, then naturally, she will suffer irreparable loss and hardship, which can not be

compensated in terms of money. Hence, I am including to pass following order.”

3. The learned Counsel for the petitioner would submit that the two children are from the previous marriage, which is dissolved by mutual consent and that after divorce, the petitioner has remarried and has an additional family to support.

4. Learned Counsel for the petitioner invites my attention to the reply-cum-written statement filed on the record, particularly, paragraph 9, in which the averment is that the petitioner has already purchased one Lenovo Laptop for Simaran and has also transferred Rs.10,000/- to her.

5. The welfare of the children is paramount. The petitioner had done no charity, if he has purchased a Laptop for his daughter, who is admitted to the engineering College. I entirely agree with the learned Judge of the Family Court that the petitioner has sufficient means to bear the College fees of Simaran. The fact that the petitioner has remarried, is irrelevant in the context of the fact that his obligations and duty to ensure that Simaran is not thrown out of the College is not diluted by his commitments to the second wife.

6. I see no reason to interfere in writ jurisdiction. The petition is dismissed.

7. The Registrar (Judicial) shall bring this order to the notice of the learned Judge, Family Court, Nagpur, who shall ensure its compliance lest Simaran suffers irreparable prejudice.