

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

WRIT PETITION NO.6249 OF 2016

Tushar @ Ajay s/o Prabhakar Battulwar,
Aged about 40 yrs., Occ: Service,
R/o Ganjipeth, Nagpur. **PETITIONER**

...V E R S U S...

1. Sau. Bhagyashree @ Vibha w/o Tushar
@ Ajay Battulwar, Aged about 35 yrs.,
Occ: Teacher, R/o 96-B, Swami Vihar,
Near Datta Mandir, Bhusawal.

Alternate Address:
101, Ekmath Nagar,
Behind Shahu Nagar,
Besa Road, Manewada,
Nagpur-35.

2. Principal Judge,
Family Court No. 3,
Nagpur. **RESPONDENTS**

Mr. V. R. Thote, Advocate for Petitioner.
Mr. K. B. Ambilwade, Advocate for Respondent 1.

CORAM: **ROHIT B. DEO, J.**
DATE: **18th FEBRUARY, 2022.**

ORAL JUDGMENT:

Heard Mr. V. R. Thote, the learned counsel for the
petitioner and Mr. K. B. Ambilwade, the learned counsel for
respondent 1.

2. The petitioner-husband is assailing an order rendered by the Judge, Family Court-3, Nagpur in petition under Section 24 of the Hindu Marriage Act, 1955 (Act) instituted by the petitioner seeking dissolution of marriage, whereby the respondent-wife is granted interim maintenance of Rs.10,000/- (Rupees Ten Thousand) per month and the two minor children are granted monthly interim maintenance of Rs.5000/- (Rupees Five Thousand) each.

3. Apart from the fact that the order impugned which is rendered on 20.07.2016 is an order granting interim maintenance, I am not inclined to interfere since the order impugned is unexceptionable.

4. It is well settled that the inquiry which a court is expected to undertake, while deciding an application for interim maintenance, is essentially limited in scope. Ordinarily, having taken a *prima facie* view, that the wife is not in a position to maintain herself, an order of interim maintenance ought to follow.

5. In the present case, the learned Judge has considered the pleadings and the material on record threadbare and has recorded a *prima facie* finding that the respondent-wife is not in a

position to maintain her-self and the two minor children. In writ jurisdiction, I would be loath to interfere in such finding of fact, albeit a *prima facie* finding.

6. In so far as quantum is concerned, the interim maintenance which is granted is neither arbitrary nor disproportionate. The gross salary of the petitioner in September, 2015 was Rs.88,168/- (Rupees Eighty Eight Thousand One Hundred Sixty Eight) and the net pay was Rs.69,000/- (Rupees Sixty Nine Thousand). The learned counsel for the petitioner has made available for my perusal the relatively recent salary slip which indicate that the gross salary in January, 2022 is Rs.92,098/- (Rupees Ninety Two Thousand And Ninety Eight). While the learned counsel for the petitioner emphasizes on the deductions, it is trite law that unless the deduction is a compulsory deduction, the same cannot be factored in. Having considered the submission and the reasons recorded by the learned Judge of the Family Court, I find no reason to interfere in writ jurisdiction.

7. The petition is dismissed with costs.

JUDGE