

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.1144 OF 2023

KAUSTUBH SATISH KALKAR
VERSUS
AMRUTA KAUSTUBH KALKAR

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Mr. Hrishikesh V. Tungar, Advocate for the Petitioner.
Mr. J. V. Patil, Advocate for Respondent.

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 28th JUNE, 2023.

P.C:-

1. The petitioner/husband is aggrieved by the order passed by the learned 3rd Joint Civil Judge, Senior Division, Sangmner below Exhibit-29 in Hindu Marriage Petition No.135/2018. The Hindu Marriage Petition is filed by the respondent/wife under Section 9 of the Hindu Marriage Act for restitution of conjugal rights. In the proceedings, interim maintenance at the rate of Rs.4000/- per month was granted by the Trial Court vide order dated 27.06.2019. The wife filed application below Exhibit-29 contending that husband has not deposited a single rupee towards interim maintenance and Rs.1,96,000/- are the arrears of interim maintenance. With a view to harass the wife, husband has filed divorce petition after the wife filed present petition. She, therefore, prayed that the defence of the husband be struck off for non-payment of interim maintenance. After hearing the parties, the said application is

partly allowed by the Trial Court and the husband was directed to deposit the arrears of the interim maintenance within two months from the date of order i.e. 14.10.2022. On failure of the husband to deposit the said amount, the defence of the husband was to be struck off. The husband has failed to deposit the amount within stipulated period. Hence, his defence is struck off. The husband is aggrieved by the same.

2. Heard the learned advocate for the petitioner. Perused the memo of writ petition, annexures thereto and the impugned order.

3. At the time of issuance of the notice, this Court directed the petitioner to deposit an amount of Rs.1,00,000/- to show his bonafides. The same is deposited by the petitioner. Learned advocate for the petitioner also states that the petitioner is regularly paying interim maintenance of Rs.5000/- per month to the wife. The petitioner has shown willingness to deposit the arrears of interim maintenance. With a view to give a fair and reasonable opportunity to the petitioner to contest the Hindu Marriage Petition on merits, writ petition deserves to be allowed and the same is hereby allowed.

4. The petitioner is directed to deposit the arrears of interim maintenance in the Trial Court within a period of four

weeks from today. On such deposit, the impugned order shall stand quashed and set aside. The Trial Court shall decide the Hindu Marriage Petition expeditiously and in any case within one year from the date of receipt of this order.

5. An amount of Rs.1,00,000/- deposited by the petitioner in this Court shall be paid to the respondent-wife.

(NITIN B. SURYAWANSHI)
JUDGE

Devendra/June-2023