

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3027 OF 2023

Puran S/o. Saku Rathod Petitioner

Versus

Ladkubai W/o. Puran Rathod Respondent

.....
Mr. B.G. Parnerkar, Advocate h/f Mr. Arvind S. Deshmukh,
Advocate for the Petitioner
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 16th MARCH, 2023

ORDER :

1. This petition, filed under Article 227 of the Constitution of India, impugns the order passed by the learned Civil Judge, Senior Division, Parbhani, below Exhibit-14 in Hindu Marriage Petition No.70 of 2021, thereby partly allowing the application filed by the respondent/wife for grant of interim maintenance under section 24 of the Hindu Marriage Act.

2. The petitioner/husband has filed Hindu Marriage Petition under section 13(1)(ia) of Hindu Marriage Act, praying for restitution of conjugal rights. After the respondent-wife caused her appearance, she filed interim maintenance application below Exhibit-14, thereby claiming Rs.20,000/- per

month by way of interim maintenance. The petitioner/husband opposed the said application contending that his sons are prohibiting him from cultivating his agricultural land, and they are cashing away the crops of his share.

3. The trial Court, after hearing the parties was pleased to allow the application and granted Rs.2,500/- per month by way of interim maintenance to the respondent/wife. Hence, the present petition.

4. Heard the learned advocate for the petitioner. Perused the grounds raised in the writ petition, annextures thereto and the impugned order.

5. The learned advocate for the petitioner strenuously submits that the petitioner is a senior citizen and not in a position to pay maintenance to the wife because of the acts of his sons. His sons are prohibiting him from entering in the field and they are taken away the crops cultivated by him in his own field. This aspect was ignored by the trial Court while allowing the maintenance of Rs.2,500/- to the wife, which according to him is exorbitant.

6. I am not in agreement with the submissions of the learned advocate for the petitioner. It is settled legal position that husband has a duty to maintain his wife. He may have his own difficulties that does not mean that wife should not be awarded interim maintenance. The husband may adopt appropriate legal proceeding to deal with his sons and/or he may file appropriate proceedings against his sons, if so advised.

7. The trial Court has rightly allowed the interim maintenance to the wife, and though maintenance of Rs.20,000/- per moth was claimed, awarded only Rs.2,500/- considering the status of the parties as well as the financial position of the husband. No fault is found in the approach of the trial Court. The impugned order cannot be termed as perverse or illegal.

8. The writ petition being devoid of merit is dismissed.

[NITIN B. SURYAWANSHI]
JUDGE

S.P. Rane