

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11251 OF 2021

SIDHARTH SHRIDHAR PATHAK
VERSUS
PALLAVI SIDHARTH PATHAK

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Mr. B.R. Kedar – Advocate for Petitioner

Mr. R.P. Savale h/f. Mr. V.P. Patil – Advocate for sole Respondent

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CORAM : SHARMILA U. DESHMUKH, J.
DATED : 24th JANUARY, 2023

PER COURT:-

1. The petitioner challenges the order dated 7th August, 2021 passed in Hindu Marriage Petition No. 162 of 2019, whereby an interim maintenance of Rs.5,000/- per month has been granted to the respondent/wife.
2. The petitioner/husband is a Class-IV employee, working in Central Railways and admittedly earns salary of Rs.37,500/- per month. Learned counsel for the petitioner submits that, he has taken home-loan and as such after deduction of EMI's, the remaining amount is only of Rs.10,000/- and as such sum of Rs.5,000/- granted as maintenance is on higher side.
3. While considering the income of the husband for the purpose of granting maintenance at the interim stage what is to be considered, is the income after statutory deductions. In the present case, the petitioner has taken home-loan, and the EMI's cannot be taken as

statutory deduction and monthly salary of Rs.37,500/- has to be considered while granting maintenance to the wife.

4. The couple has a minor child and in my view considering the salary of the petitioner/husband, the interim maintenance of Rs.5,000/- cannot be said to be on higher side. Learned counsel for the petitioner contends that, the interim maintenance ought to have been granted by the Trial Court from the date of order instead of date of application by excluding the period of Corona (pandemic) situation. However, I find no reason to interfere in grant of maintenance from the date of the application, more so, when it is not contention of the petitioner that the respondent is working and has a source of income.

5. For the reasons stated above, Writ Petition stands dismissed.

(SHARMILA U. DESHMUKH)
JUDGE

Pooja K.