

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL WRIT PETITION NO.1835 OF 2023

Sangram Yashwant Mane

...Petitioner.

V/s.

Vinaya Sangram Mane

...Respondent.

Mr. Drupad Patil for the Petitioner.

Mr. Indrajit Magdum a/w. Mr. Manoj Patil for the Respondent.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : 9th NOVEMBER, 2023.

P.C.:-

1. Heard.

2. The challenge in the Petition is to the order dated 30/11/2022 passed by the Family Court granting maintenance of Rs.10,000/- p.m. to the Respondent-wife and two minor children.

3. Learned counsel appearing for the Petitioner submits that the amount of Rs.10,000/- is excessive as his in-hand salary is Rs.16,000/- after deducting income tax. According to him he has taken a loan for medical treatment of Respondent and he is paying the EMI, which is required to be considered.

4. Before the Family Court, the Petitioner has admitted that he is working in Caspro Metallics as Finance Officer. In the affidavit of Assets and Liability his monthly expenses are shown to be Rs.10,000/- and his salary is shown at Rs.20,700/- p.m. From the material which has come on record, the trial Court has granted a sum of Rs.10,000/- as interim maintenance. It need not be stated that at the stage of grant of interim maintenance, the amount is granted on *prima facie* assessment of the material on record, which has been done by the Family Court by taking into consideration the salary of the Petitioner and the admitted position that the Respondent is not working and there is one girl child aged about 10 years, who is studying in school and a son aged about 1 year and 10 months dependent on the Respondent. The submission of the Petitioner as regards the loan taken during the subsistence of marriage even though for the medical treatment cannot be a ground to reduce the interim maintenance of the amount of Rs.10,000/-. Admitted position is that wife is not earning and there are two minor children and their day to day sustenance is dependent on the Petitioner. Even if we consider the salary of the Petitioner at Rs.16,000/- after the statutory deduction of income tax, the amount granted cannot be said to be excessive even if the salary is divided one fourth. It also needs to be noted that the order has been passed in the year

2022 almost one year back and being in service there are bound to be increments and promotions. Even if the inflation is considered, the amount will have to be enhanced. At the time of passing of the order the elder child was aged 10 years and now she must have been promoted to the higher standard and the educational expenses would have increased. Similarly, as far as the younger son is concerned, he will also be required to go to school and as such expenses will increase and being the father it is responsibility of the Petitioner to maintain the Respondent and the children.

5. In my view, even grant of Rs.10,000/- is on the lesser side as the child is studying in school and there is no source of income for the Respondent-wife. Be that as it may. The Family Court can very well enhance the amount upon subsequent Application, if any, filed by the Respondent-wife after the educational expenses of the younger child also comes into picture.

6. For the foregoing reasons, maintenance of Rs.10,000/- cannot be said to be excessive.

7. Petition is devoid of merits and stands dismissed.

8. By order dated 24/2/2023, the Petitioner was permitted to deposit a sum of Rs.40,000/- towards the arrears of maintenance in this Court. Liberty to the Respondent to withdraw the said amount.

(SHARMILA U. DESHMUKH, J.)