



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2293 OF 2021

Deepak Rasiklal Shah

..... Petitioner

Vs.

Mrs. Bhavna Deepak Shah

..... Respondent

Ms. Sheetal Pandya a/w. Mr. Ameet Mehta, Ms. Kavita Nadar i/b
M/s. Solicis Lex for the Petitioner.

Mr. Dushyant Purekar for the Respondent.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : 3rd NOVEMBER 2023.

P. C.

1. Heard Ms. Pandya, learned counsel for the Petitioner
and Mr. Purekar, learned counsel for the Respondent.

2. The challenge in the Petition is to the order dated
17/1/2020 passed by the Family Court in an Interim Application
seeking interim maintenance for the wife and two children viz.,
Bhoomi and Shalya under section 24 of the Hindu Marriage Act.

3. By the said order, the Family Court had granted an
interim maintenance of Rs.20,000/- per month to the wife and
Rs.10,000/- per month for each child amounting to Rs.40,000/- till
the decision of the Petition.

4. The Family Court has also directed the Petitioner to incur educational expenses i. e. school/college fees and tuition fees and other educational expenses of both the children.

5. Learned counsel appearing for the Petitioner submits that there is no limit which has been set for the educational expenses of the children and that he is not in a position to pay the educational expenses. Upon a query by this Court as to the nature of employment of the Petitioner, learned counsel for the Petitioner has submitted that the Petitioner is in the business of manufacturing of rubber. The admitted position is that Respondent is not working and is completely dependent on the Petitioner for her day to day sustenance and that of the children. The children are studying and education expenses which the children have to incur are necessarily to be borne by the father. There are no details produced on record that under the guise of claiming educational expenses, certain other expenses are being met by the Respondent. The submission is that there is a demand by the children for shoes, pens etc. which submission in my opinion should not have been raised in the first place.

6. As a father it is the duty of the Petitioner to provide for the children and a complaint cannot be made that certain personal items are demanded by the children. As regards the amount of interim maintenance, which has been granted by the Family Court, the same cannot be said to be excessive, considering that the Petitioner comes from a business family and the Respondent is unemployed and solely dependent on the Petitioner. It is a matter of common knowledge that at the time of adjudicating Interim Application for maintenance there is certain guess work which is involved and it is only after the evidence which has been led that the facts proved on record can assist the Family Court in arriving at the actual amount of maintenance.

7. Considering that of the said wedlock there are two children, it is the Petitioner's responsibility to bear the educational and other expenses. The amount of Rs.20,000/- for the Respondent and Rs.10,000/- for each child granted by the Family Court cannot be said to be excessive. On the other hand, in my opinion considering that three years have passed the amount in fact should have been enhanced considering the inflation. Be that as it

may. The learned counsel appearing for the Petitioner has not been able to point out any material which could *prima facie* demonstrate that the amount granted as interim maintenance is excessive or exorbitant. In any event, considering that the Respondent is unemployed and children are studying in school /college, the amount granted cannot be interfered with.

8. The Petition is dismissed.

SHARMILA U. DESHMUKH, J.