

Ashwini V

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6621 OF 2022**

Niranjan Shivaji Munjal

...Petitioner

Versus

Snehal Shivaji Munjal

...Respondent

Ms Divya Parab, i/b Rajesh Katore, for the Petitioner.

Mr Rajesh More, for the Respondent.

CORAM : Neela Gokhale, J.

DATED : 3rd May 2023

PC:-

1. **Rule.** The Respondent waives right to file reply affidavit. By consent, rule made returnable forthwith.

2. The Petitioner husband has assails order dated 17th March 2022 passed by the learned Jt. Civil Judge Senior Division at Pune, (“CJSD”) on application below Exhibit 13 in Marriage Petition No. 1517 of 2018. The application is for interim maintenance under Section 24 of the Hindu Marriage Act, 1955 (‘The Act’). The Petitioner also assails order dated 17th March 2022 passed on application below Exhibit 38 whereby the learned CJSD permitted the Respondent wife to file the subsequent disclosure Affidavit of Assets and Liabilities.

3. The learned CJSD has awarded interim maintenance of Rs. 7,000/- per month to the Respondent wife from the date of the application.

4. The Petitioner husband has sought divorce from the Respondent. There is no issue of the said marriage. The Respondent wife made an application seeking interim maintenance in the Marriage Petition.

5. Ms. Divya Parab learned Counsel appears for the Petitioner husband. She states that the Respondent wife is working as an Assistant Manager in the State Bank of India. Her salary slip of March 2021 is on record and indicates that her take home salary is approximately Rs. 45,985/- per month.

6. The learned Counsel for the Petitioner submits that the judgment and order impugned cannot be sustained on the ground that; *firstly*, the Respondent wife is a working woman; *secondly*, she has no dependants; *thirdly*, the Respondent wife filed two successive Affidavits of Income and Expenditure with discrepancies; *fourthly*, the Petitioner husband is required to maintain his mother and *fifthly*, he is required to pay EMI towards housing loan. For all these reasons, it is contended on behalf of the Petitioner that the amount of interim maintenance is disproportionate and needs to be set aside.

7. Counsel also states that during the pendency of the proceeding before the learned CJSD, the Respondent wife had sought permission to file a subsequent Affidavit of Income and

Expenditure citing an error in the first Affidavit. The learned CJSD after examining both the Affidavits was pleased to observe that error in the first affidavit was inadvertent and there was no substantial change or correction made in the second affidavit. Hence the learned CJSD permitted the Respondent wife to file the second disclosure affidavit.

8. Ms. Divya Parab learned Counsel for the Petitioner husband has attempted to show that the second affidavit was filed because the Respondent wife had made incorrect submissions in the first affidavit. She has thus challenged this order as well.

9. Heard Mr. Rajesh More, learned Counsel appearing for the Respondent wife. He has defended the order contending that the Petitioner husband is a Medical Doctor and earns an amount of Rs. 1,84,000/- (before tax) and gets at least 1,50,000/- per month in hand. He further submits that the Petitioner husband also owns three house properties from which he gets rental income. Thus, the Petitioner husband enjoys a high standard of living and hence he submits that the order be confirmed.

10. Perused record and heard the parties.

11. In so far as the order of interim alimony is concerned, the Affidavit of Income and Expenditure clearly confirms that the Petitioner husband is a Medical Doctor and earns a substantial income. His professional income is supplemented by the rental income as well. The Respondent wife although a working woman is

compelled to reside in a rental flat and gets approximately Rs. 45,000/- per month as her income. Admittedly, the amount of Rs. 5,000/- has already been awarded to her by the learned Judicial Magistrate First Class Pune (“JMFC”) in separate proceedings under the Domestic Violence Act 2005. The learned JMFC has awarded her an amount of Rs. 5,000/- per month as interim house rent from her husband.

12. In my considered view, the amount of Rs. 7,000/- towards interim alimony in addition to the interim house rent awarded by the learned JMFC is reasonable and justified. In fact, it is the contention of the Respondent wife that her husband earns much more than what has been recorded in his Affidavit in the year 2021. In view of forgoing, the judgment and order impugned herein require no intervention at this stage.

13. In so far as the order allowing the wife to file the second discloser Affidavit is concerned, the learned Court has clearly observed that the error in the first Affidavit is purely technical and seems to have occurred due to misconception of the word ‘deponent’ which has been wrongly taken as ‘Respondent’. The learned CJSD has recorded that the error is not intentional and quite formal. In these circumstances, permission to file the second subsequent disclosure Affidavit cannot be said to be unjustified. In any case, in changed circumstances, Affidavits of Income and Expenditure can be revised and filed to state the current and changed facts.

14. In view of the forgoing, the both the assailed orders are confirmed.

15. Rule is discharged. There will be no orders as to costs.

(Neela Gokhale, J)