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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

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WRIT PETITION NO.6567 OF 2018

Pradeep V. Dhavale

...Petitioner

V/s.

Manisha P. Dhavale

...Respondent

Mr.Priyal G. Sarda for the Petitioner.

Mr.Soham Powar i/b Mr.Rajesh More for the Respondent.

CORAM : RAJESH S. PATIL, J.

DATE : 29TH NOVEMBER, 2023.

P.C. :-

1. This Writ Petition filed by the husband challenging the interim maintenance order passed by the Civil Judge (Senior Division), Pune, wherein interim maintenance was fixed at the rate of Rs.18,000/- per month for the wife and two sons.

2. This matter was argued yesterday for quite some time by both the counsel. As the counsel mentioned to this Court that both the sons have become major now. The elder son Prathamesh is 23 years old and younger son Aditya is 19 years old. Counsel for the Petitioner submitted that both the sons are staying with their father i.e. the Petitioner. Therefore, the impugned order passed on 12 March 2018 has to be modified as the sons are not staying with the

Respondent (wife). As the fact that the sons are staying with the father has been denied by the wife, this Court thought it proper to interview two sons, who have now become major. Therefore, it was proper that both the sons to attend the hearing of this matter on V.C.

3. When the matter was again called out at 4:00 p.m., both the sons i.e. Prathamesh and Aditya were on V.C. They informed this Court that Prathamesh has been staying with his father for last four to five years and Aditya has been staying with his father from July 2021. However, the Respondent (wife) informed this Court that both the sons occasionally even, stay with her.

4. Counsel for both the parties thereafter made their submissions as regards the maintenance amount. I have carefully gone through the entire proceedings and have heard both the counsel. Suffice it to say that if the present challenge for interim maintenance order can be disposed of with the following directions.

5. The Writ Petition No.6567 of 2018 is disposed of with the following directions :-

i). Till March 2019, the Petitioner would be liable to pay monthly compensation to the Respondent at the rate of Rs.18,000/- p.m.

ii). As from April 2019, elder son Prathamesh started residing with his father, therefore, from April 2019, the Petitioner (husband)

would be liable to pay monthly compensation at the rate of Rs.12,000/- per month to the Respondent (wife).

iii). From July 2021, as the second son Aditya also started residing with his father, therefore from July 2021, the Petitioner (husband) would be liable to pay monthly compensation at the rate of Rs.6,000/- per month till the hearing and disposal of M.P. No.955 of 2013, which is pending before Civil Judge (Senior Division), Pune. Counsel informs this Court that the proceedings before the Civil Judge (Senior Division), Pune has been transferred to Family Court, Pune, and have been numbered as P.A. No.490 of 2023.

iv). As the Petitioner (husband) is claiming that he has deposited the compensation amount and the Respondent (wife) has withdrawn the amount whatever was deposited by the Petitioner (husband) and further the Petitioner (husband) has also paid the amount in Lower Court, he claims that a sum of Rs.1,76,000/- is paid in excess and therefore, the said sum should be adjusted in the future amount to be payable by the Petitioner (husband) to the Respondent (wife). The Respondent (wife) has denied this, as she states that certain cheques given by the Petitioner (husband) have been dishonoured. Therefore, it will be necessary that both the parties should produce the bank statements to prove the said fact about the payment already being made in excess or dishonourment of cheques.

The Family Court, who would be hearing the main petition and hearing the petition on the issue and after considering the argument and documents on record, which would be produced by both the parties, shall decide the issue on its own merits.

6. The Writ Petition is accordingly disposed of.
7. All parties to act on the authenticated copy of this order.

(RAJESH S. PATIL, J.)