

Nikita

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

WRIT PETITION NO.8621 OF 2023

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Saroja Shriniwas Shenolikar	... Petitioner
V/s.	
Shriniwas Parshuram Shenolikar	... Respondent

Ms. Namrata N. Shenoy for the Petitioner.

Ms. Prachi P. Dalvi i/b S.C. Legal for the Respondent.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 29, 2023

P.C.:

1. The wife has filed present petition challenging rejection of application below Exhibit-14. For an application below Exhibit-14, the wife seeks following relief.

(i) 50% share in office premises for doing business.

(ii) Maintenance of Rs.20,00,000/- in lumpsum or Rs.20,000/- month.

(iii) Maintenance of Rs.50,000/- per month to the daughter.

2. The Family Court rejected the application ascertaining that wife has made statement that she has started her own business for her survival. The Trial Court, further holds that, therefore, there is no question of granting interim maintenance to her. No

maintenance to the daughter is denied on the ground that such application is dismissed for non prosecution, and therefore, separate proceedings for some relief cannot be granted.

3. It is also held that share in the office premises is matter of trial as she has contributed for purchase of gala.

4. At this stage grant of interim relief, the Court needs to consider the averments in the application by taking prima facie view of the matter. Based on the materials on record, if the Court arrive at the conclusion that prima facie case is made out for grant of relief, the Court is obliged to grant relief in favour of the applicant. In the facts of the case, the first relief is 50% share in the office premises. For consideration of said relief, it is necessary for the Court to ascertain materials on record, to indicate that the wife had contributed for purchase of the land or any other material which entitles wife to seek such relief.

5. For grant of adjudication of relief of maintenance, it is necessary for the Court to consider definite income of both sides. Arrive at conclusion that prima facie, husband is earning a fixed amount or the wife as the case may be is earning fix amount. Based on such factors, the Family Court needs to be adjudicate on the quantum of maintenance as prayed by the applicant. Such applications cannot be rejected based on reasoning in the impugned order. Therefore, it is necessary that the Family Court shall adjudicate the reliefs prayed by the wife afresh for considering prima facie perusal of the material placed on record by the parties. Hence following order:

- a) Impugned order dated 21st September 2022, passed by Family Court No.6, Mumbai in Application No.2271 of 2018 below Exhibit 14 is quashed and set aside.
 - b) The proceedings are remanded back to the Family Court to decide the application below Exhibit 14 afresh.
 - c) Considering the facts of the case, the Family Court, shall decide the application below Exhibit-14 within three months from today.
6. The writ petition stands disposed of.

(AMIT BORKAR, J.)