

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

WRIT PETITION NO. 1369 OF 2021

**DARSHAN
PRAKASH
PATIL**

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PRAKASH PATIL
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Mahesh Tanaji Tupe

...Petitioner

Versus

Sou. Surekha Mahesh Tupe

...Respondent

Mr. Priyal G. Sarda for the Petitioner.

Mr. Ajinkya M. Udane for the Respondent.

**CORAM: N. R. BORKAR, J
DATED: 13 JULY, 2023**

PC:-

1. In an application filed by the respondent/wife under Section 125 of the Code of Criminal Procedure, the trial Court by the impugned order directed the petitioner/husband to pay an amount of Rs.10,000/- per month towards interim maintenance and Rs.10,000/- per month towards rent.
2. The learned counsel for the petitioner submits that the respondent is residing at her parents house. It is submitted that the trial Court, therefore, ought not to have granted Rs.10,000/- towards rent. It is submitted that the petitioner in addition to maintenance amount is still willing to pay Rs.5,000/- towards rent.
3. On the other hand, the learned counsel for the respondent supported the order impugned.

4. I have perused the impugned order. The trial Court has passed the impugned order only on the basis of interim maintenance order, which was passed under Section 24 of the Hindu Marriage Act in the petition filed by the petitioner for divorce, which was subsequently withdrawn. The trial Court ought to have independently examined the entitlement of the respondent towards maintenance or rent amount.

5. Be that as it may, considering the submissions made, the petitioner shall pay Rs.5,000/- per month towards the rent instead of Rs.10,000/-. The impugned order is modified to that extent. The petitioner shall pay arrears, if any, towards maintenance and rent amount within eight weeks from today, failing which the impugned order shall stand revived.

6. The petition is disposed of in above terms.

(N. R. BORKAR,J.)