

Ghuge

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

WRIT PETITION NO.13334 OF 2022

Surabhi Kaustubh Haldavanekar	... Petitioner
V/s.	
Kaustubh Nagesh Haldavanekar	... Respondent

Mr. Aseem Nafade i/b G.T Mestha for the petitioner.

Mr. Vijasy S. Thakur for the respondent.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 6, 2023

P.C.:

1. This is a petition directed against the order dated 13th July, 2022 passed by the learned Judge, Family Court Thane in Petition No. A-251 of 2019 thereby rejecting two applications filed by the petitioner; first application for interim maintenance, and second application for lump sum alimony or monthly maintenance.
2. The Learned Judge, Family Court Thane by the impugned order held that the claim of maintenance for minor daughter cannot be granted as the wife had received an amount of Rs. 15,00,000/- (Rupees Fifteen Lakh Only) towards full and final settlement of her earlier marriage from her first husband.
3. The right to claim permanent alimony has been postponed till the stage of trial. The right of daughter to claim maintenance

has been denied on the ground that both the parties are disputing adoption deed.

4. On perusal of the adoption deed, it appears that the said adoption deed is registered adoption deed wherein the husband has accepted the responsibility to maintain adopted child. The effect of the adoption is that the daughter is entitled to all rights as that of natural daughter. Without placing anything on record to substantiate the contentions of the husband that the adoption deed was not executed, the adoption deed on record being registered document prima facie required to be taken into consideration at interim stage for adjudication of the rights of child to seek maintenance.

5. Since the learned Judge, Family Court has refused to grant maintenance to the child, in my opinion, considering clause 3 of registered adoption deed, it was obligatory on the learned Judge to consider payment of maintenance to the daughter after taking into consideration the factors laid down by the Apex Court in paragraph No.77 to 87 of the judgment in **Rajnesh V. Neha** reported in (2021) 2 SCC 324. The learned Judge shall decide quantum of maintenance by taking into consideration material produced by the parties and considering affidavits which are required to be filed in paragraph No.70 of **Rajnesh** (supra).

a) For the aforesaid reasons, the impugned order is set aside.

b) The learned Judge, Family Court, Thane shall consider the application below Exhibit 27 for interim maintenance of

minor daughter within Six (6) weeks from the date of appearance of the parties.

6. The writ petition is disposed of in the above terms. No costs.

(AMIT BORKAR, J.)