

AGK

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

WRIT PETITION NO.2775 OF 2022

Neeta Yogesh Patankar

... Petitioner

V/s.

Yogesh Yuvraj Patankar

... Respondent

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**WITH
WRIT PETITION NO.8044 OF 2021**

Yogesh Yuvraj Patankar

... Petitioner

V/s.

Neeta Yogesh Patankar

... Respondent

Mr. Abhijit Sarwate with A.M. Udane and Ms. Hardev Kaur Aidhen for the petitioner in WP/2775/2022 & for the respondent in WP/8044/2021.

Mr. Manoj M. Gadkari for the petitioner in WP/8044/2021 & for the respondent in WP/2775/2022.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 5, 2023

P.C.:

1. The challenge in both these petitions is to the order dated 28th September 2021 passed by the learned Judge, Family Court No.5, Pune in P.A. No.1201 of 2017. By the impugned order, Family Court directed the husband to pay interim maintenance at Rs.10,000/- to the wife and Rs.7,500/- to the sons from the date of application till the decision of the petition.

2. According to the petitioner, an amount of Rs. 15,73,500/- was paid to the wife which has not been dealt with by the learned Family Court. According to the respondent/wife, the basis of income arrived at by the Family Court is improper and wrong calculations has been made by the Family Court while arriving at the income of the husband. Apart from both issues, various other issues have been raised by both the parties. The grievance of both the parties is that in the impugned order the Family Court has not considered material submissions raised on behalf of the parties.

3. In that view of the matter, it would be in the interest of justice to set aside the impugned order and direct the learned Family Court to decide the application below Exhibit 23 afresh after taking into consideration contentions raised on behalf of the husband and wife. Hence, following order:

- a) The impugned order dated 28th September 2021 is quashed and set aside and the matter is remanded back to the Family Court No.5, Pune for fresh consideration of the application below Exhibit 23;
- b) Till the application below Exhibit 23 is decided, the husband shall continue to pay the amount as directed by order dated 28th September 2021;
- c) Considering the controversy involved, the learned Family Court shall decide the application below Exhibit 23 as expeditiously as possible, and in any case within three (3) months from today;

d) It is made clear that the learned Family Court shall arrive at the quantum of maintenance after taking into consideration the contentions raised on behalf of both sides.

e) It is made clear that all observations made in this order are only for the purposes of decision of the present petitions and shall not influence the learned Family Court while re-considering the application below Exhibit 23.

4. Both the writ petitions stand disposed of in above terms. No costs.

(AMIT BORKAR, J.)