



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10074 OF 2017

Mr. Rajiv Bhavsar

...Petitioner

Versus

Mrs. Kaveeta Bhavsar

...Respondent

Mr. Anshul Anjavlekar a/w Mr. Advait Hattangadi i/by Raval Shah and
Co. for the Petitioner.

CORAM : N.R. BORKAR, J.

DATED : 19 AUGUST 2023

PC. :

This Court on 6 October, 2017 passed the following order :

“1. Heard learned counsel for the Petitioner. Affidavit-of-service is filed on record to show that the Respondent, who is at present residing in New Zealand, is served by courier and also by e-mail. It is, however, urged that the matter is kept tomorrow before the Trial Court, which is executing the maintenance order, and there is every apprehension that the warrant of arrest or distress warrant being issued against the Petitioner for execution of the maintenance order.

2. According to learned counsel for the Petitioner, as, during certain period, his daughter was residing with him, there was no question of his paying the amount of maintenance awarded to the daughter and he is seeking only adjustment of the said amount. The Trial Court has, however, refused to accept his contention and rejected the said prayer. It is further submitted that the Petitioner is ready and willing to deposit whatever amount,

according to him stands due, and he is having the Demand Draft ready and he will deposit the same in the Trial Court tomorrow, when the matter is fixed.

3. In view thereof, subject to the Petitioner depositing the Demand Draft of Rs.1,57,500/-, which is, according to him, the due amount, in the Trial Court, the execution proceedings before the Trial Court are stayed.

4. Meanwhile, issue notice to the Respondent through Court, returnable on 7th November 2017.

5. Parties to act on the authenticated copy of this order.

2. This Court thereafter on 21st November, 2019 passed the following order:

“1. The record indicates that, by an order dated 6th October, 2017 this Court had issued notice to the respondent through Court making it returnable on 7th November, 2017. It appears that the record is silent about service of notice through Court upon the respondent.

2. In view, thereof, the Registrar (Judicial-I) is hereby directed to verify from the concerned whether the said notice in fact was issued and served upon the respondent. The said report be submitted to this Court on or before 19th December, 2019.

3. Ad interim relief, if any, to continue till then.

4. Stand over to 20th December 2019.”

2. Pursuant to the above order, on 13 December, 2019 Registrar (Judicial-II) submitted a report, that Advocate for the petitioner has not supplied the copy of petition, hence notice was not issued to the respondent through Court.

3. After lapse of more than five years, the learned counsel for the petitioner submits that he be permitted to supply the copy of the petition for issuing notice to the respondent and interim order be continued as according to him the Executing Court is reluctant to adjourn the execution proceedings due to non-continuation of interim order by this Court. From overall circumstances it is apparent that petitioner has filed the present petition against interlocutory order just to prolong the execution proceedings which are in relation to maintenance amount that too based on consent decree.

4. The Petition is dismissed.

(N.R.BORKAR, J.)