

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO.1712 OF 2020**

|                                        |   |                                              |
|----------------------------------------|---|----------------------------------------------|
| Amruta Arvind Gharat                   | ] |                                              |
| Age - 52, Occupation - Housework,      | ] |                                              |
| Residing at - Kharkar Chawl,           | ] |                                              |
| Old Post Lane, Revdanda,               | ] |                                              |
| Taluka - Alibag, District - Raigad.    | ] | <b>Petitioner<br/>(Original Applicant)</b>   |
| <b>Vs.</b>                             |   |                                              |
| 1. State of Maharashtra                | ] |                                              |
| Through the office of                  | ] |                                              |
| Government Pleader, P.W.D Building     | ] |                                              |
| Bombay High Court.                     | ] |                                              |
| 2. Arvind Anant Gharat                 | ] |                                              |
| Age - 57 years, Occupation - Business, | ] |                                              |
| Residing at - Chaul Tuladdevi,         | ] |                                              |
| Taluka Alibaug, District Raigad.       | ] | <b>Respondents<br/>(Original Respondent)</b> |

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Mr. Kaustubh Joshi, for Petitioner.

Mr. Sachin Kankal, A.G.P, for Respondent No.1-State.

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**CORAM : PRITHVIRAJ K. CHAVAN, J.**

**DATE : 13<sup>th</sup> April, 2023.**

**ORDER:**

1. By this petition, the petitioner-wife has impugned the order dated 4th April, 2019 passed by the Civil Judge, Senior Division, Alibag rejecting the application of the petitioner below "Exhibit 87" in Hindu Marriage Petition No.39 of 2012. The parties are

husband and wife. The petitioner has filed a petition against the husband in the year 2012 in the Court of Civil Judge, Senior Division, Alibag for dissolution of marriage. The petitioner, *inter alia*, moved an application for maintenance *pendente lite*. The said application was allowed by the trial Court. It is contended that the respondent No.2 failed to comply with the order, thereby, depriving the petitioner and her son of any maintenance amount. The petitioner, therefore, moved an application for striking out defence of respondent No.2. Respondent No.2 produced a Fixed Deposit Receipt issued in the name of the petitioner indicating it as payment in lieu of arrears of maintenance. The trial Court accepted the said Fixed Deposit Receipt as arrears of maintenance and rejected the application of the petitioner for striking of the defence of respondent No.2.

2. Heard learned Counsel for the petitioner.

3. It is the contention of the petitioner that an amount of Rs.1,35,000/- was outstanding towards the maintenance. Respondent No.2, however, produced a Fixed Deposit Receipt of Rs.80,680/- in the name of the petitioner issued by Alibag Co-

operative Bank, Chaul Branch. The petitioner also clarified that initially an amount of Rs.20,000/- was invested in her name on 10th March, 2005. It got auto renewed and again an amount of Rs.40,000/- was invested in her name. Ultimately, amount increased to the tune of Rs.80,680/- on 10th March, 2018.

4. Interestingly, according to the petitioner, she realized some time by the end of year 2004 that her brother Ramesh Kathe and her sister Rajashree Gharat had invested the aforesaid amount in her name and in the name of her son as the respondent-husband was not maintaining the petitioner and son. Since the petitioner had left the matrimonial house due to the alleged harassment at the hands of the respondent, the respondent deliberately retained the said Fixed Deposit Receipt with him. In fact, it was the amount invested in the petitioner's name by her siblings.

5. It has come on record that son of the petitioner and respondent has become an Engineer and is serving at Vashi.

6. The learned trial Court, after considering the respective rival submissions, has rightly rejected the application of the petitioner

assigning cogent and legal reasons. It has been rightly observed that had the said amount of Rs.80,680/- been invested by her siblings in the name of the petitioner, no sane man would believe that the petitioner forgot about the said Fixed Deposit and could only realize when the same was tendered by the respondent in the Court. Having said so, the impugned order does not warrant interference under the supervisory jurisdiction of this Court.

7. In view of the aforesaid observation, the petition stands dismissed with costs.

**[PRITHVIRAJ K. CHAVAN, J.]**