

TAUSEEF
LAIQUEE
FAROOQUI

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.14318 OF 2022

Digitally signed by
TAUSEEF LAIQUEE
FAROOQUI
Date: 2023.02.06
17:26:16 +0530

Pratibha Ajit Ambre Alias
Pratibha Bhikaji Sathe

...Petitioner

V/s.

Ajit Krishna Ambre

...Respondent

Mr. Siddharth Kamble a/w Mr. B. D. Shinde i/by Mr. Sandeep
Sathe for Petitioner.

Mr. Vivek Joshi for Respondent.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 03, 2023

PC.:

1. The wife is challenging the order dated 19th September 2022, thereby postponing adjudication on an application filed under Section 24 of the Hindu Marriage Act, 1955, seeking interim maintenance. The family court postponed the adjudication of the application, based on two reasons; i). suppression of material fact, ii). that the trial is at fag end.

2. The family court based on aforesaid reasons observed that it is not safe to consider such relief at this stage and the claim can be considered along with main petition. Such approach on the part of family court is contrary to well settled principles of law. Section 24 of the Hindu Marriage Act, 1955 has been enacted to

provide immediate maintenance to the wife. Postponing such adjudication to be decided along with final relief would amount to negation of beneficial provisions of statute.

3. In the facts of the case, if the court was satisfied that the wife was not entitled to seek maintenance, he could have rejected the application. However, without adjudicating on the rights of the parties, such adjudication cannot be postponed at the stage of final disposal. Therefore, in my opinion, the impugned order cannot be sustained. The impugned order is set aside. The proceedings are remanded to the family court at Thane to decide application below Exhibit-49 under Section 24 of the Hindu Marriage Act, 1955 before deciding the petition finally.

4. It is made clear that the application shall be decided in accordance with the provisions of law uninfluenced by the observations made in the present application.

(AMIT BORKAR, J.)