

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,**  
**NAGPUR BENCH : NAGPUR.**

**M.C.A. NO.633 of 2021 (For Review) IN C.A.(S) NO.263 OF 2014 IN**  
**SECOND APPEAL NO.6 OF 2014**

Vandana wd/o Nilesh Bhagat and ors.

vs.

Asha wd/o Nilesh Bhagat and others.

---

Office Notes, Office Memoranda of  
Coram, appearances, Court's Orders  
or directions and Registrar's order

---

Court's or Judge's Order

---

Shri Nikhil Padhye, Advocate for applicants.

Shri S.S.Deshpande, Advocate for non-applicant nos. 1

Shri R.G.Kavimandan, Advocate for non-applicant nos. 2(a) to 2(e).

**CORAM :- A.S.CHANDURKAR, J.**

**DATE :- 23<sup>rd</sup> JUNE, 2023**

The applicants seek review of order dated 01.10.2018 passed in Civil Application (S) No. 263 of 2014. By the said order, the aforesaid civil application that was preferred by the respondent no.1 in Second Appeal - Smt. Asha under Section 24 of the Hindu Marriage Act, 1955 sought grant of the interim maintenance. In the reply filed to the said civil application by the appellants in Second Appeal, copies of 7/12 extracts were placed on record to indicate that Nilesh – the predecessor of the appellants had limited title in the said land.

2. While deciding Civil Application (S) No.263/2014, it has been observed that the appellant no.1 was in possession of various agricultural lands and on that basis, it was directed that an amount of Rs.Ten thousand per month would be paid without prejudice to the rights of the parties from August, 2018.

3. The learned counsel for the applicants submits that from the 7/12 extracts placed on record it can be seen that the appellant no.1 is not in exclusive possession of any agricultural land. The record indicates that the names of various shareholders in the agricultural lands are mentioned and hence the premise on which the amount of

Rs.Ten thousand per month was fixed was not correct. He submits that there is no record to indicate that any agricultural land is in exclusive possession of the appellant no.1.

4. In the reply filed by the original applicant who sought interim maintenance, it is pleaded that the appellant no.1 is in possession of the agricultural lands and therefore the order does not deserve to be reviewed.

5. On hearing the learned counsel for the parties and perusing the documents on record, it is seen that alongwith the reply filed to Civil Application (S) No. 263 of 2014 copies of 7/12 extracts at pages 20 to 22 indicate that the name of the predecessor-Nilesh is recorded with other shareholders. It is therefore seen that the observations made in the order under review that the original appellant no.1 is in possession of various lands is not supported by any document. For that reason, it would be necessary to re-consider the prayer made in Civil Application No. 263 of 2014 by recalling the order dated 01.10.2018.

6. Accordingly, the following order is passed:

(i) The order dated 01.10.2018 passed in Civil Application (S) No.263 of 2014 is recalled. Civil Application (S) No.263 of 2014 is restored for fresh consideration.

(ii) Till the said civil application is considered, it is directed that the appellant no.1 would continue to pay Rs.Ten thousand per month. This payment would be subject to adjudication of Civil Application (S) No. 263 of 2014. Needless to state that the applicants would be entitled to adjustment of the amounts already paid pursuant to the order dated 01.10.2018 dependent upon the adjudication of the said Civil Application.

(iii) Miscellaneous Civil Application No. 633 of 2021 is allowed and disposed of. No costs.