

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.3854 OF 2022

(SURESH SAMBHAJI SATHE...VS.. SMT. GIRIJA @ SANGITA SATHE)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Naval Shiralkar, Adv. h/f. Shri Vikas Kulsange, Advocate for Petitioner.
Ms Nirja Choubey, Advocate for Respondent.

CORAM : ANIL S. KILOR, J.

DATED : JUNE 30, 2023.

1. Heard.

2. The order dated 19/01/2022 passed by Judge, Family Court No.3, Nagpur granting maintenance of Rs.4,000/- per month to the wife and Rs.3,000/- per month to the son, totalling to Rs.7,000/- per month towards interim maintenance from the date of the application dated 23/02/2019 till disposal of the main petition, is under challenge in this writ petition.

3. The learned counsel for the petitioner submits that the petitioner gets approximately Rs.9,000/- per month in his hand and therefore, the interim maintenance of Rs.7,000/- per month is exorbitant and the said amount is granted without considering the case of the petitioner. The learned counsel for the petitioner has pointed out various deductions in support of his case that he is receiving only Rs.9,000/- per month.

4. On the other hand, the learned counsel for the respondent points out that all the deductions cannot be considered while determining the amount of maintenance. However, the deduction to the extent of income tax and compulsory contribution like General Provident Fund, PPF etc. are permitted and deductions towards house rent, electricity charges, repayment of loan, LIC premium are not permitted. For this purpose, she has placed reliance on the judgment of Delhi High Court in the case of *Nitin Sharma ..vs.. Sunita Sharma*, reported in **2021 SCC OnLine Del 694**.

5. The learned counsel for the respondent further points out that the petitioner is in arrears of maintenance and the amount is huge and it comes to about Rs.2,00,000/-. She submits therefore, that this Court may not entertain the present petition as the petitioner has not shown any regards towards the order passed by the Family Court.

6. In light of the rival contentions, I have perused the record and the impugned order.

7. From the salary slip of the petitioner filed on record, it is evident that, the total salary of the petitioner is Rs.31,234/- per month without deduction and after permissible deductions, the amount comes to approximately Rs.22,000/- per month.

8. The learned single Judge of Delhi High Court, relying on the judgment of the Hon'ble Supreme Court of India in the case of *Dr. Kulbhushan Kunwar vs.. Raj Kumari*, reported in (1970) 3 SCC 129, has held that the deduction towards income tax and compulsory contribution like GPF, PPF etc. are permitted and no deductions towards house rent, repayment of loan, electricity charges, LIC Premium are permitted. Thus, in the present matter, after permissible deductions, if the amount of salary is considered for determining the amount of maintenance, it comes to approximately Rs.22,000/-. Hence, the amount granted to the tune of Rs.4,000/- per month to the wife and Rs.3,000/- per month to the son of the petitioner cannot be said to be exorbitant.

9. In the circumstances, I am of the opinion that no interference is warranted in the present writ petition. Accordingly, the Writ Petition is **dismissed**. No order as to costs.

10. Fees of the counsel appointed through legal aid, to represent the respondent-wife be quantified as per the Rules.