



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

Writ Petition No.3493 of 2023

Munindra @ Bunty s/o Gangadhar Somkuwar Vs. Karishma @ Dolly W/o
Munindra Somkuwar

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

Court's or Judge's Order

Shri U.A. Gasavi, Advocate for the Petitioner/s
Shri B.M. Kharkate, Advocate for the Respondent-sole

CORAM : ANIL S. KILOR, J.
DATED : 29.08.2023

1. Heard.
2. In this petition, the order below Exh.12 directing the petitioner to pay Rs.25,000/- per month to the respondent-sole toward interim maintenance, is under challenge.
3. Admittedly, the order was passed without hearing the petitioner. Even this fact can be seen from paragraph 2 of the impugned order, which reads thus:

“2. The matter was posted on the board on yesterday 13.12.2022. The learned advocate of the petitioner made submission at bar that if the learned advocate of the respondent would advance argument of the present application behind his back, he has no objection and also requested for keeping the matter tomorrow and he would remain present and argument on this application on first session. As per the said submission on 13.12.2022, heard the argument of learned advocate of the respondent on this application in second session on 13.12.2022 and the matter was fixed today for argument of learned advocate of the petitioner but no one appeared till 04.30 p.m.”

4. In that view of the matter, it is evident that without giving sufficient opportunity to the petitioner, the application came to be decided by granting interim maintenance.

5. Therefore, I am of the opinion that the matter needs to be remanded back to the learned trial Court for deciding the application afresh, after giving sufficient opportunity to the parties. Accordingly, I pass the following order:

(i) The writ petition is **partly allowed**.

(ii) The order below Exh.12 dated 14.12.2022 passed by the learned Jt. Civil Judge Senior Judge, Nagpur, is hereby quashed and set aside and the matter is remanded back to decide the application Exh.12 afresh, after hearing both the parties.

6. The petitioner has already deposited Rs.3,75,000/- in the trial Court to show his bonafide. The respondent-wife is permitted to withdraw 50 % amount of Rs.3,75,000/- along with interest, if any, accrued thereon and the balance 50 % amount shall be kept in the Court and its disbursement will be subject to result of the application Exh.12.

7. It is further made clear that, after the decision on the application Exh. 12, if it is found that the amount received by the respondent i.e. 50 % of 3,75,000/- is in excess, as per final order, the balance amount shall be adjusted in the future maintenance amount.

[ANIL S. KILOR, J.]