



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

Criminal Writ Petition No. 829 of 2023

[Ashok S/o Kedarnath Gupta ..vs.. Kedarnath S/o Dashrath Gupta]

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

Court's or Judge's orders

Mr. C. F. Bhagwani, Advocate for the petitioner

CORAM : ANIL L. PANSARE J.

DATED : 10-11-2023

The challenge is to the order dated 18-9-2023 passed by the Judge, Family Court No. 4, Nagpur. The petitioner – son had filed application, Exhibit 10-A before the Family Court for dismissal of execution proceedings on the ground that main petition has been dismissed by the Family Court on 2-5-2023, and, therefore, the execution proceedings for recovery of interim maintenance initiated by the respondent – father was not maintainable.

2. The Family Court has rejected the application in following terms.

“4] It is not in dispute that by interim maintenance order dt. 07.06.2022 passed below Ex.6 in petition No. E-414/2019, interim maintenance was granted to the petitioner @Rs.10,000/-p.m. from 06.08.2019 till final decision of main petition. The matter was finally decided on 02.05.2023 and the petition came to be dismissed. However, mere dismissal of main petition, the interim maintenance order passed by the Court can not be said to be comes to be an end. The petitioner has every right to recover the

*outstanding amount of interim maintenance.
So I do not find merit in the application.
Hence, application Ex.10-A is rejected.”*

3. Learned counsel for the petitioner submits that once the main petition seeking maintenance is dismissed, the interim order stood merged into the final order and, therefore, the father will not be entitled for maintenance whether interim or final.

4. I do not find any substance in the contentions. The Family Court, vide interim order, has directed the son to pay Rs. 10,000/- per month to his father. The execution proceedings in terms of interim order will be, therefore, well maintainable. The interim order itself speaks that it will continue till final order. In that sense, until final order was passed, the son was duty bound to pay maintenance as directed by the Court. In fact and when enquired, learned counsel for the petitioner submits that the son has already paid Rs. 1,00,000/- and is not seeking recovery of said amount. The son appears to be aware of the effect of the interim order as also the final order. Despite such status, he has filed present petition which is devoid of merit. I do not find any reason to interfere with the order impugned in the writ jurisdiction. The petition is dismissed.

(Anil L. Pansare, J.)