



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

Writ Petition No.8546 of 2022

Roshan s/o Naresh Lanjewar Vs. Monali w/o Roshan Lanjewar

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

Court's or Judge's Order

Shri P.S. Tiwari, Advocate for the Petitioner/s

CORAM : ANIL S. KILOR, J.
DATED : 09.10.2023

1. Heard learned counsel for the petitioner. None for the respondent-sole, though served.
2. The order below Exh.22 dated 29.09.2022 passed by Family Court No.4, Nagpur, allowing the application and thereby, directing the petitioner to pay Rs.4,000/- per month to the respondent towards interim maintenance from the date of application i.e. 04.09.2021 till final disposal of the main petition, is under challenge in this petition.
3. The learned counsel for the petitioner submits that the respondent was already married with one Jahangir Abdul Rashid Khan and without disclosing the said fact, she performed the second marriage with the petitioner and after getting the knowledge of the same, the petitioner filed the petition for declaring the marriage null and void in which the respondent filed the application for grant of interim maintenance, which came to be allowed.

4. The learned counsel for the petitioner has drawn attention of this Court to the findings recorded by the learned Family Court No.4 in respect of the respondent's first marriage, which read thus:

"6. Upon hearing the learned advocate for both the parties. I have gone through the entire record. Petitioner has filed the petition for declaring his marriage with respondent as null and void on the ground that before their marriage, the respondent was already married with one Jahangir Khan. This fact is admitted by the respondent, but stated that her first marriage with Jahangir Khan is not valid as they both are from different religion and she has not converted into Muslim religion. The question whether the marriage of petitioner with respondent is valid or not, can not be decided at this stage, as it requires to be decided on merit. But, it is not in dispute that respondent married with petitioner and she is residing separately. Petitioner has not stated anything as to what arrangement he has made for the maintenance of respondent."

5. After going through the record and after perusing the petition filed by the respondent against her first husband, Jahangir Abdul Rashid Khan and after considering the further fact that the said petition was withdrawn, *prima facie* show that the respondent, before performing the marriage with the petitioner, got married with one Jahangir Abdul Rashid Khan and before the marriage with the petitioner, there was no decree of dissolution of said marriage. If that marriage is in existence, the declaration sought by the petitioner may require to grant to the effect that, the marriage of the respondent with the petitioner would null and void and as such, this point goes to the root of the matter.

6. In the circumstances, for the ends of justice, I am of the opinion that if the petitioner is permitted to deposit the amount of maintenance in the Family Court, which shall not be withdrawn by the respondent. Moreover, I am of the opinion that if the Family Court is directed to dispose of the petition of the petitioner within stipulated period, the purpose would be served. Accordingly, I pass the following order:

- (i) The writ petition is partly **allowed**.
- (ii) The petitioner is directed to deposit the amount as directed by the Family Court No.4, Nagpur, towards maintenance vide order dated 29.09.2022 in the Family Court No.4, Nagpur.
- (iii) The petitioner shall deposit the amount of maintenance, including the arrears if any, within four weeks from today in the Family Court No.4, Nagpur and thereafter, shall deposit it regularly.
- (iv) The Family Court, No.4, Nagpur is directed to dispose of the Petition No.A-517/2021 within six months from today.
- (v) The amount deposited by the petitioner shall be subject to the result of the main petition.

Accordingly, the writ petition is disposed of in the above terms. No order as to costs.

[ANIL S. KILOR, J.]