



**IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD**

922 WRIT PETITION NO. 14495 OF 2021

Sangeeta Venkatesh Kshirsagar

VERSUS

Vyankatesh Alias Venkatesh Devidas Kshirsagar And Another

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Advocate for the Petitioner : Mr. Chhabda Ranbir L.

Advocate for Respondent No.1: Mr. Deshpande Gaurav L.

...

WITH

922 CIVIL REVISION APPLICATION NO. 35 OF 2021

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CORAM : R. M. JOSHI, J.

Dated : July 02, 2024

PER COURT :-

IN CRA 35/2021 :

1. At the outset, learned Counsel for respondents takes exception to the maintainability of the revision application against the order impugned on the ground that the same is interim in nature. To support his submission he placed reliance on the judgments of this Court in case of ***Mrs. Rajashree R. Dixit vs. Rajesh Nagesh Dixit, reported in AIR 2005 Bombay 352, and Dilipbhai Chhaganlal Patel vs. State of Maharashtra and Ors., reported in 1984 (2) Bom C R 338.***
2. This Court has gone through the Judgments cited supra and finds that there is no reason to take any different view. At this stage, Counsel for the applicant seeks leave to convert the revision in the writ petition.
3. Leave is granted.

4. After hearing both sides for substantial time, learned Counsel for petitioner, on instructions, seeks leave to prefer an application before the Family Court for modification of the order in the changed circumstances including factum of his retirement from service.

5. Perusal of the impugned order also shows that the interim maintenance is granted till disposal of the petition before the Family Court and / or change in circumstances. Thus no interference is called for in this order. This proceeding stands disposed of with leave as prayed.

6. For the purpose of record, the revision stands disposed of. Revision be renumbered as writ petition. On registration it stands disposed of.

IN WP 14495 OF 2021 :

7. This petition takes exception to the order passed below Exhibit 41 in Petition No. A 3/2018 to the extent that the interim maintenance is granted from the date of application and not from the date of original proceeding as prayed in application Exhibit 41.

8. Learned Counsel for the petitioner submits that the Family Court

has not recorded any reason whatsoever for denying the amount of maintenance from the date of petition.

9. This Court has passed order in Civil Revision Application No.35/2021 whereby the husband was permitted to file an appropriate application before the Family Court for modification of order of interim maintenance. Since the said issue would be matter of decision before the Family Court, petitioner is also permitted to agitate the issue with regard to the effect of interim maintenance from the date of petition or from the date of the application as directed in the impugned order.

10. Since the Family court has not recorded any reason for granting interim maintenance from the date of application Exhibit 41, this Court does not find it appropriate to record any such finding for first time, instead it would be in the fitness of justice that the Family Court is called upon to hear the parties and decide the issue by recording reason thereon. It is open for petitioner either to prefer separate application or even to make oral submission before the Family Court for agitating this issue.

(R. M. JOSHI, J.)

vj gawade/-.