



(This order is corrected pursuant to the speaking to minutes order dated 04.07.2024)

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

WRIT PETITION NO. 14150 OF 2023

**PRADNYAVANT DASHRATH GAIKWAD
VERSUS
SNEHAL PRADNYAVANT GAIKWAD**

Mr. S. K. Chavan, Advocate for the petitioner
Mr. P. N. Kalani, Advocate for the respondent

**CORAM : R. M. JOSHI, J.
DATE : 27th JUNE, 2024**

PER COURT :-

1. By consent of both sides, heard finally at the stage of admission.
2. Petitioner-husband takes exception to the order dated 15/09/2023 passed by the Family Court, Parbhani in PA No. 75/2023 whereby order of interim maintenance of Rs.25,000/- per month is granted to the wife. The Petitioner was further directed to pay Rs.15,000/- to the wife towards expenses of proceeding.
3. Learned counsel for the petitioner submits that the Family Court has committed error in not taking into consideration the reply of the petitioner before it as well as the evidence placed indicating that the

wife is employed and earning. As far as the allegations against the petitioner are concerned that he is an agriculturist, an Advocate and also performs in the films. It is submitted that there is evidence to show that no land is held by the petitioner in his village. It is his submission that there was specific denial about any other occupation except for a legal profession by the petitioner. By relying upon the judgment in case of ***Rajensh Versus Neha and Another, 2020 DGLS(SC)733***. It is submitted that the parties were required to file on record affidavit disclosing their assets and liabilities and income for the purpose of decision of application of maintenance, however, in this case no such affidavits are filed. It is submitted that in case of ***Aditi Alias Mithi Versus Jitesh Sharma, 2023 SCC OnLine SC 1451*** it is held by the Hon'ble Supreme Court that not only in the cases of maintenance under the Domestic Violence Act but in all cases of maintenance such affidavit is mandatory. He, therefore, submits that the order impugned passed without such affidavits cannot sustain.

4. Learned counsel for the respondent has pointed out the observations made by the Family Court indicating prima facie admission given by the petitioner-husband about he being agriculturist as well as a practicing Lawyer in Pune. It is submitted that having regard to these facts and circumstances impugned order does not deserve interference.

5. In view of the judgment of *Aditi Alias Mithi* (cited supra) there remains no doubt of the legal position that not only in the cases under the Protection Of Women From Domestic Violence Act but in all maintenance proceeding affidavit of disclosure of assets and liabilities is mandatory to be filed. In the instance case, no such affidavit is filed by both sides. As a result of this non compliance, Family Court is required to be directed to decide this application afresh by calling upon the parties to file their respective affidavits in the tune of directions of Hon'ble Supreme Court.

6. Question arises as to whether the order of maintenance granted at this stage needs to be set aside or such order can be continued to some extent as interim measure, subject to decision of Family Court on remand. Perusal of the order impugned indicates that the learned Family Court has taken into consideration the notice dated 05/06/2018 addressed by the petitioner-husband to the wife indicating his occupation as agriculturist. Further admittedly the petitioner is practicing lawyer not less than 10 years in District Court, Pune. Having regard to these facts, this Court finds it appropriate to direct the petitioner by way of interim arrangement to deposit a sum of Rs.25000/- per month from the date of order till decision of the application (Exhibit

13) afresh in accordance with law.

7. It is clarified that the direction to deposit Rs.25000/- by way of interim arrangement would be without prejudice to right and contention of the parties and the said amount should be adjusted in the final order. Family Court to ensure that arrears of amount is deposited before the Court before hearing the application afresh. Needless to say that the Family Court to pass order on Exhibit 13 afresh without getting influence by any observation made in the order dated 15/09/2023 as well as by this Court.

8. Petition stands disposed off in above terms.

(R. M. JOSHI, J.)

ssp