



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

925 CRIMINAL WRIT PETITION NO. 872 OF 2023

PRAFULLA S/O DHUDKU MAHALE

VERSUS

SEEMA W/O PRAFULLA MAHALE AND OTHERS

...

Advocate for the Petitioner : Mr. Ghodke Siddhesh Subhashrao

Advocate for Respondent nos.1 to 3 : Mr.Deshpande Shantanu A.

...

WITH

CRIMINAL APPLICATION NO. 181 OF 2024

IN WP/872/2023

PRAFULLA S/O DHUDKU MAHALE

VERSUS

SEEMA W/O PRAFULLA MAHALE AND OTHERS

...

Advocate for Applicant : Mr. Ghodke Siddhesh Subhashrao

Advocate for Respondent nos.1 to 3 : Mr.Deshpande Shantanu A.

...

CORAM : **SHIVKUMAR DIGE, J.**

DATE : 8th August, 2024.

P.C.:

1. By this writ petition, the petitioner is challenging the judgment and order dated 22nd May, 2023 passed below Exhibit-7 by Judge, Family Court, Dhule in Petition E No. 12 of 2023.

2. It is contention of the learned counsel for the petitioner that the learned Judge, Family Court has granted interim maintenance of Rs.10,000/- each per month to respondent nos.1 to 3 without any reasonable ground. The learned counsel further submitted that respondent no.1 herself has left the company of the petitioner. She wants to live luxurious life, hence she does not want to stay with the

petitioner. The petitioner never ousted respondent no.1 from his house. The petitioner is ready to pay maintenance to minor daughter and not to respondent no.1 – wife and respondent no.2, who is majors daughter. The learned counsel further submitted that respondent no.1 had not filed affidavit in respect of her assets and liabilities before the Family Court, but these facts are not considered by the Judge, Family Court, which is erroneous and requested to allow the writ petition.

3. It is contention of learned counsel for respondent nos.1 to 3 that respondent no.1 stays with respondent nos.2 and 3. Respondent no.1 has no source of income. Respondent no.2 is taking education. She is studying in 4th year of Engineering, whereas respondent no.3 is studying in school. The learned counsel further submitted that there was agreement executed between the petitioner and respondent no.1 that the petitioner would pay maintenance of Rs.10,000/- each to the respondents but the terms of said agreement is not followed by the petitioner. As the respondents are unable to maintain herself, the Family Court has passed the well reasoned order. No interference is required in it. The learned counsel further submitted that respondent no.1 has filed affidavit in respect of her assets and liabilities before the Family Court and requested to dismiss the writ petition.

4. I have heard both the learned counsel. Perused the impugned order passed by the Family Court.

5. While passing the order, the learned Judge, Family Court has observed that the petitioner is doing the job as lecturer. As per agreement took place between the petitioner and respondent no.1, the petitioner should have paid the maintenance of Rs.30,000/- per month to respondent nos.1 to 3. On that ground, the Family Court has passed the impugned order. I do not find any infirmity in it. In my view, the learned Judge, Family Court has passed the interim maintenance to respondent nos.1 to 3 on the basis of mutual agreement executed between the petitioner and respondent no.2. It is contention of the learned counsel for the petitioner that respondent no.1 has violated the terms and conditions of the said agreement. To prove it evidence is required. Though the learned counsel for the petitioner is saying that respondent no.1 has herself deserted the company of the petitioner, to prove it evidence is required. At the interim stage, this Court can not consider the submissions of the petitioner. Though respondent no.2 is major but she is taking education so she is unable to maintain herself, hence being father it is responsibility of the petitioner to maintain respondent no.2. If all the contentions of both the parties are kept open, it would suffice and I pass the following order :-

ORDER

- (i) Writ petition is dismissed.
- (ii) The learned Judge, Family Court, Dhule is requested to dispose of the maintenance application filed by respondent no.1 as early as

possible.

(iii) All the contentions of both the parties are kept open.

(iv) In view of the disposal of the writ petition itself, nothing survives in Criminal Application No.181 of 2024, hence the same stands disposed of.

[SHIVKUMAR DIGE, J.]

sga