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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7141 OF 2022

Snehal Ganesh Pawar @ Snehal
Sunil Jadhav

.....Petitioner

Vs.

Ganesh Jaysing Pawar

.....Respondent

Mr. Vaibhav Gaikwad a/w Atharva R. Bhingardev and Mr. Yash M.
Naik for the petitioner

Mr. Shashank Shubham i/b Mr. Sameer S. Kadam for the respondent

CORAM : GAURI GODSE, J.

DATE : 25th SEPTEMBER 2024

ORDER:

1. This petition is listed today for final disposal at admission stage. The petition is filed by the wife taking an exception to the order passed by the Family Court under section 24 of The Hindu Marriage Act, 1955 seeking interim maintenance for herself. By the interim application, the petitioner had prayed for interim maintenance for herself and her minor son. By the impugned order, the Family Court has granted maintenance for the son, however, the prayer for maintenance for the wife has been rejected.

2. Learned counsel for the respondent submits that respondent had applied for a DNA test of the respondent and his son as he has made allegations of adultery against the petitioner. He submits that he is likely to receive a report approximately within two weeks from today. He further submits that he would rely upon the report to support his contentions that the petitioner would not be entitled to seek any maintenance from the respondent. Learned counsel for the respondent further submits that the petitioner had not filed her affidavit of assets and liabilities in the Family Court. He submits that the affidavit of assets and liabilities is filed for the first time in this Court. He thus submits that the Family Court had no opportunity to examine the affidavit of assets and liabilities of the petitioner. He therefore on instructions of the respondent submits that respondent would have no objection if the application is remanded to the Family Court for deciding the petitioner's prayer for interim maintenance after considering the affidavit of assets and liabilities of the petitioner and the DNA report which the respondent intends to rely.

3. Learned counsel for the petitioner on instructions submits that he agrees with the aforesaid suggestion. However, he submits that all the contentions of the parties on merits be kept open including the

petitioner's contention that the DNA report would have no bearing on the petitioner's prayer for interim maintenance.

4. In view of the aforesaid, the petition is partly allowed by passing the following order:

ORDER

I. The impugned order dated 27th December 2021 passed by the learned Judge of the Family Court below Exhibit 23 in Petition A-50/2020 to the extent of refusing interim maintenance to the petitioner is quashed and set aside.

II. Application at Exhibit 23 is restored to the file of the learned Judge of the Family Court, Satara only for the purpose of deciding the petitioner's prayer for interim maintenance.

III. The impugned order granting interim maintenance for the son stands confirmed.

5. Learned counsel for the respondent on instructions of the respondent who is present in the Court submits that he has paid the amount of maintenance for the son, however, if any amount is still

pending, the same will be paid at the earliest.

IV. Rival contentions of the parties on merits are kept open.

6. Writ petition is partly allowed in the aforesaid terms.

[GAURI GODSE, J.]

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