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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 13572 OF 2023**

Mr. Abhijeet Vishnupant Pawar ... Petitioner
Vs.
Mrs. Megha Abhijeet Pawar ... Respondent

Mr. Yogen Kakde a/w. Mr. Shashank Shubham for the Petitioner.
Mr. Anant Vadgaonkar for the Respondent.

CORAM : GAURI GODSE, J.

DATE : 4th OCTOBER 2024

ORDER :

1. Heard learned counsel for the parties. This petition takes an exception to order passed under Section 24 of the Hindu Marriage Act, 1955 granting interim maintenance to the wife and the daughter who was around seven months old when the order was passed.
2. Learned counsel for the petitioner submits that the petitioner has an obligation to maintain a joint family. He further submits that his income is only Rs.6000/- per month. He further submits that the wife is well educated and capable of maintaining herself. He submits that all the allegations made by the wife are denied by the petitioner in his

written statement. He further submits that in the impugned order the learned Judge has not correctly appreciated the earning capacity of the wife and has passed interim order quantifying an amount of Rs.50,000/- per month which is unjust and not in accordance with the document on record. He submits that considering the petitioner's income of Rs.6000/- per month he is unable to make payment towards the interim maintenance. He further relies upon decision of the Hon'ble Apex Court in the case of *Rajniesh vs. Neha and Others*¹. He therefore requests that the impugned order would require consideration by this court.

3. Learned counsel for the respondent supports the impugned order. He submits that the petitioner is a practicing Advocate and holds various properties. He submits that the respondent has placed on record a list of assets and properties owned by the petitioner. He submits that the respondent has also placed on record particulars regarding the petitioner's conduct of transferring his properties in the name of his brothers only with an intention to avoid making payment towards interim maintenance. He submits that considering petitioner's wealth as brought on record by the respondent the learned Judge of

¹ AIR 2021 SC 569

the Family Court has rightly disbelieved the petitioner's contention that his income is only Rs.6000/- per month.

4. Learned counsel for the respondent further submits that admittedly the respondent has no source of income and she is living at the mercy of her parents. He thus submits that no interference is called for in the impugned order.

5. I have perused the papers of the petition. Both the parties have filed their affidavit of assets and liabilities, in compliance with the legal principles settled by the Apex Court in the case of ***Rajnish vs. Neha and Others***. In the impugned order, the learned Judge has recorded the particulars of the properties owned by the petitioner, which he transferred in the name of his brothers by way of gift deeds. All the transfers of the properties are after filing the petition for maintenance.

6. Though the learned counsel for the petitioner sought to argue that the properties that are transferred were belonging to joint family properties there are no particulars placed on record with regard to the same.

7. In the impugned order in paragraph 10 the learned Judge has

also considered the properties purchased by the petitioner out of his own income and subsequently transferred by way of gift deeds. Thus even if the petitioner's contention is accepted that the properties belonged to joint family, it is not disputed that the petitioner has transferred his rights in respect of the same after the respondent filed application for maintenance. In view of the particulars of the properties that stood in the name of the petitioner as clearly recorded in the impugned order, learned Judge of the Family Court has arrived at an opinion that the petitioner has more than sufficient income to maintain the respondent and the minor child

8. The reasons recorded by the learned Judge in the impugned order is with reference to all the particulars placed on record which are not disputed. I do not find any perversity or any illegality in the reasons recorded in the impugned order to arrive at an opinion that the petitioner has sufficient income.

9. In view of the aforesaid it is clear that the petitioner has suppressed his real income and all his sources of income. A perusal of the petitioner's affidavit of assets and liabilities does not disclose any particulars regarding properties standing in his name as has been

recorded by the learned Judge in the impugned order based on the material placed on record by the respondent. Except for denying the contentions raised by the respondent, the petitioner has not placed on record any material to indicate his source of income and his actual income.

10. The minor child is around 2 ½ years old today and was approximately a year old when the impugned order was passed. Hence, by considering the material on record regarding the petitioner's properties the learned Judge has concluded in paragraph 13 that the respondent's monthly income is around Rs.1,25,000/- per month. The learned Judge has considered the requirements of the respondent and the minor child and arrived at a conclusion about the qualification of the interim maintenance that is in the interest and welfare of the minor daughter and the respondent-mother. Nothing is argued to point out any error in the amount of monthly income as quantified in the impugned order and the amount is proportionate to the income of the petitioner. Thus, after considering all the relevant aspects the learned Judge has quantified the amount of interim maintenance for the respondent and the minor daughter.

11. The impugned order is a well-reasoned order passed by the learned Judge of the Family Court. I do not find any illegality or perversity in the reasons recorded in the impugned order. Hence, there is no reason to exercise powers under Article 227 of the Constitution of India. The petition is devoid of any merits. Hence petition is dismissed.

[GAURI GODSE, J.]