



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.15986 OF 2023

Sandeep Bhimashankar Karanje

... Petitioner.

Versus

Mrs. Archana Sandeep Karanje

... Respondent.

Mr. Akshay Kulkarni, for the Petitioner.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : MARCH 06, 2024

P. C.:

1. Heard.

2. By this Petition, the challenge is to the order dated 29th September, 2023 passed by the trial Court granting a sum of Rs.25,000/- as interim maintenance under Section 24 of the Hindu Marriage Act, 1955. Marriage Petition No.409 of 2020 was instituted by the Respondent-wife seeking restitution of conjugal rights. In this proceedings, an application for interim maintenance came to be filed under Section 24 of the Hindu Marriage Act, 1955, seeking maintenance of Rs.50,000/-. The admitted position is that the parties were married in the year 1995 and there is a

child born of the said marriage in the year 1996. The parties have been residing separately since the year 1999. In response to the Application for interim maintenance, the contention of the Petitioner is that the Respondent has left the house without any reasonable cause in June, 1999 and had not returned for cohabitation. It was further contended that the Petitioner is serving having permanent job and the Respondent is employed and is in a position to maintain herself. It was also contended that the son who is now major is maintaining the Respondent.

3. Affidavit of assets and liabilities was filed by both the parties. In the affidavit of assets of the husband, the monthly income of Rs.92,227/- p.m. was mentioned as also the movable and immovable properties standing in his name.

4. In the affidavit of disclosure of the Respondent-wife, she has mentioned that she is staying in a rented house and her educational qualification is SSC. It is mentioned that the son and the mother of the Respondent are dependent upon the Respondent and she is unemployed.

5. The trial Court took into consideration the pleadings as

well as the affidavit of assets and disclosure and observed that the Petitioner was working as a City Engineer at Solapur Municipal Corporation and earning a monthly salary, at the relevant time, of Rs.92,227/- p.m. and rent of Rs.3,00,000/- from the immovable property. As regards the expenses, the trial Court held that there are no documents annexed to show the expenses of Rs.20,000/- for himself and Rs.12,000/- towards medication of his parents. The trial Court held that the son of the Petitioner had secured the employment in March, 2019 and from the year 1999 i.e. from the separation of the parties, no provision was made for the maintenance of the Respondent and the son.

6. The trial Court considered the affidavit of assets and liabilities of the Respondent observing that the Respondent does not have any independent source of income. Upon *prima facie* assessment of the comparative incomes of the parties, the trial Court held that the Petitioner's monthly income is of Rs.1,17,227/- p.m. whereas the monthly expenses would be around Rs.32,000/-. Considering the income, the Petitioner was directed to pay the interim maintenance of Rs.25,000/- p.m. to the Respondent.

7. Learned counsel appearing for the Petitioner would assail the quantum of interim maintenance as well as grant of interim maintenance for the reason that since 1999, the respondent-wife was residing separately and no proceedings were taken out till the filing of the present Petition in the year 2020. He would further submit that there is no mention as to how the respondent-wife was surviving during this period. He would further submit that Respondent has suppressed the fact of the employment of the son in the affidavit of assets and liabilities filed by her. According to him, as there was no contact between the parties for last so many years, the respondent-wife is not entitled to any maintenance. Learned counsel appearing for the petitioner would further submit that in the affidavit of assets and liabilities the respondent-wife has not disclosed her assets.

8. Considered the submissions and perused the record.

9. The factum of unemployment of the respondent-wife is not disputed. It is also not disputed that from the date of separation since the year 1999, no provision was made by the Petitioner for maintenance of the Respondent-wife or their son and

that single handedly the Respondent has supported the son, who has now attained majority. While considering the quantum of maintenance which is required to be granted as and by way of interim maintenance, the trial Court has rightly considered this aspect that no provision for maintenance was made during this period of about 24 years. Although during this period, the Petitioner had filed petition for divorce, the same was withdrawn. The fact remains that the marriage is subsisting as of today and the Respondent has no source of income. It is the responsibility of the Petitioner to maintain the Respondent-wife. There is no dispute as regards the monthly income of the Petitioner. Considering the same, the trial Court after considering expenses as stated in the affidavit of assets and liabilities has rightly granted the sum of Rs.25,000/- p.m. as interim maintenance.

10. At the stage of the interim maintenance as mandated by the Apex Court in the case of *Rajnish vs. Neha and Ors.* reported in *MANU/SC/0833/2020*, the parties are required to file their assets and liabilities disclosing their monthly income as well as the

movable and immovable properties. The affidavits of assets and liabilities of the parties are considered for prima facie assessment and it is only at the stage of leading the evidence that the veracity of the statements made in the affidavit can be considered. It is at the stage of evidence that suppression of the assets if any can be established. At this stage by considering the affidavits the trial Court has not committed any error by relying upon it.

11. Considering that all the relevant factors considered by the trial Court while granting the maintenance, there is no infirmity in the impugned order. Petition is devoid of merits and stands dismissed.

(Sharmila U. Deshmukh, J.)