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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

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WRIT PETITION NO.5607 OF 2023

Mrs.Chitra A. Patil

...Petitioner

V/s.

Amol @ Devendra R. Patil

...Respondent

Mr.Pramod Pawar for the Petitioner.

Ms.Rajeshree Phadke for the Respondent.

CORAM : RAJESH S. PATIL, J.

DATE : 1ST MARCH, 2024.

P.C. :-

1. This Writ Petition is filed by the Wife challenging the order dated 5 December 2022 passed by the Family Court, Mumbai. By the impugned order, the Family Court, Mumbai has directed the Husband to pay a sum of Rs.40,000/- per month towards interim maintenance of the Respondent and two daughters from the date of the order. Further it was directed to pay the actual fees of the daughters directly.

2. Ms.Phadke appearing for the Respondent (Husband) submits that as of today, the husband has complied with the directions given by the Family Court, Mumbai as regards payment of school fees and also as regards payment of interim maintenance.

3. Mr.Pawar appearing for the Petitioner (Wife) submits that the present Writ Petition is filed on two counts i.e. (a) challenging the the quantum of interim maintenance granted and (b) the interim order grants interim maintenance from the date of the order, which is against the ratio laid down by the Supreme Court in the judgment in case of **Rajnish vs. Neha, (2021) 2 SCC 324.** Ms.Phadke appearing for the Husband submits that the Family Court, Mumbai has passed the impugned order granting maintenance from the date of the order since before the impugned order could be passed, the Husband has already paid a sum of Rs.6,75,000/- periodically to the Wife, which the Court has considered. Therefore, the impugned order mentioned the above payment of interim maintenance from the date of the order.

4. I have heard both the counsel and also considered the judgment of the Supreme Court in case of **Rajnish** (supra), suffice would be the purpose if the present Writ Petition is allowed and the impugned order is quashed and set-aside.

5. The Writ Petition is allowed with following directions :-

(i). The impugned order dated 5 December 2022 passed by the Family Court, Mumbai in Common Order Below Exhibits 10 and 21 is quashed and set-aside.

(ii). The Family Court, Mumbai to re-hear the parties on Exhibits 10 and 21, by allowing the parties to file any documents to support their case in view of the judgment of the Supreme Court in case of **Rajnish** (supra). The said exercise of hearing and disposing of the Applications Exhibits 10 and 21 can be completed by the Family Court, Mumbai within the period of three months from today.

(iii). In view of the arrangement, the Husband, without prejudice to the rights and contentions of both the parties, should continue paying a sum of Rs.40,000/- per month towards

the interim maintenance for the Wife and two daughters. So also he will also pay the actual schools fees of the daughters directly or any amount which is required for the upbringing of the children.

5. The Writ Petition is accordingly disposed of.

(RAJESH S. PATIL, J.)