

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6167 OF 2024.

Ravindra Chhagan Saindane

...Petitioner.

Versus

Sunita Ravindra Saindane

...Respondent.

Ms. Aditi Haikare for the Petitioner.

Mr. Sumedh S. Modak for the Respondent.

Coram : Sharmila U. Deshmukh, J.

Date : May 3, 2024.

P. C. :

1. By this petition challenge is to the order dated 1st September 2023 passed in Marriage Petition No.1070/2021 directing the respondent therein, who is the petitioner herein, to pay sum of Rs.20,000/- to the wife towards monthly maintenance from 3rd February 2023 i. e. date of the Application.

2. Learned appointed advocate for the petitioner would submit that at the time of hearing of the Application for interim maintenance the petitioner had engaged an advocate. However no steps were taken by advocate either for filing of reply or filing of Affidavit of Disclosure of Assets and Liabilities and as such the impugned order

dated 1st September 2023 came to be passed without hearing the petitioner herein and in the absence of relevant material on record. Pointing out to page 46 of the petition she would submit that the petitioner is working as a teacher and earning a monthly income of Rs.15,000/- and maintenance of Rs.20,000/- is in excess of his monthly income.

3. *Per contra*, learned counsel appearing for respondent would submit that the salary certificate on which reliance is placed does not bear any date and that to the knowledge of respondent wife the petitioner is earning monthly salary of about Rs. 70,000/-.

4. Upon query by this Court as to whether the matter can be remanded for fresh consideration to the Trial Court after filing of the necessary Affidavit of Disclosure of Assets and Liabilities by the petitioner-husband so that the material is available with the Trial Court of the comparative incomes to arrive at proper quantum of maintenance, learned counsel for the parties, on instructions of the parties, who are present in Court, submit that the matter be remanded to be decided in time bound manner subject to payment of interim maintenance in the meantime at the rate of Rs.7000/- from 3rd February 2023 and arrears to be cleared within a period of 4 weeks from today.

5. In view of the consensus which has been arrived at between the

parties, order dated 1st September 2023 is hereby quashed and set aside and Application below Exhibit 17 is restored to the file of Civil Judge Senior Division, Kalyan to be decided afresh. This Court is informed that the matter is listed before the Trial Court on 18th June 2024. On 18th June 2024, the Petitioner to file his Affidavit of Disclosure of Assets and Liabilities. Thereafter the Trial Court is requested to decide the Application expeditiously after hearing both the parties and in any event within a period of four weeks from 18th June 2024. Both the parties agree to cooperate with the Trial Court in deciding the Application below Exhibit 17. Till the Application is adjudicated afresh by Civil Judge, Senior Division, Kalyan, the Petitioner shall pay monthly maintenance of Rs.7,000/- and the arrears of maintenance at the rate of Rs.7,000/- from 3rd February 2023 shall be cleared within a period of four weeks from today.

6. Petition stands disposed of in the above terms. Liberty to the parties to place additional material on record before the Trial Court. Needless to clarify that this Court has not gone into the merits of the matter and as such all rights and contentions of both the parties are expressly kept open.

[Sharmila U. Deshmukh, J.]