

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8480 OF 2023

Manisha Jitendra Mhatre	...Petitioner
Vs	
Jitendra Vasant Mhatre	...Respondent

Adv. Harshad Nahata for the Petitioner.

Adv. P. G. Hartalkar i/b. Adv. Tejas P. Hartalkar for Respondent.

CORAM : RAJESH S. PATIL, J.

DATED : 04 APRIL 2024

P.C.:

1. This Writ Petition is filed by wife challenging an order dated 25 January 2023, passed by the Family Court, Mumbai.

2. By the impugned order dated 25 January 2023 the Family Court partly allowed the application (Exhibit-14) filed by wife seeking interim maintenance for herself and minor son. The operative part of the order dated 25 January 2023 is reproduced herein below :

"1. Application at Exh.14 is partly allowed.

2. The petitioner is directed to pay interim maintenance of Rs.50,000/- (Rupees Fifty Thousand Only) per month to the respondent from the date of order.

3. Petitioner is directed to pay interim maintenance of Rs.15,000/- (Rupees Fifteen Thousand only) per month henceforth, to the minor son till he attains majority.

4. The petitioner is directed to deposit the interim maintenance as directed, in the designated account of the respondent on or before 10th day of each month as per

English Calender.

5. The petitioner is directed to pay all the educational expenses of minor son Aman till he attains majority.

6. The respondent shall by prior written communication, convey the petitioner about minor son's educational admission, name of school/ college and expenses accordingly.

7. No order as to costs.”

3. I have heard both the counsel appearing for the parties. There is no dispute that in paragraph no.2 of the operative part of order dated 25 January 2023, the Court has not considered the guidelines given by the Supreme Court in the judgment of ***Rajnish V/s. Neha & Anr*** reported in ***(2021) 2 SCC 324***. Hence, I am satisfied that the words “from the date of the order” in item no.2 of operative part should be replaced with “date of the application i.e. 11 June 2019”. Rest of the item no.2 of operative part of order date 25 January 2023 remains unaltered.

4. The direction given by the impugned order dated 25 January 2023, operative part item no.4 is unaltered.

5. As regards item nos.3, 5 and 6 of operative part which pertains to the interim maintenance payable to the son “Aman”, learned counsel appearing for the respondent husband submits that the son “Aman” was a minor when the application was preferred by the wife. He has already attained majority, therefore now there is no maintenance payable to him however, the education expenses and other expenses are concerned for the son Aman, they have been already taken care of, there is no dispute about it.

6. Mr. Nahata submits that there is some outstanding amount as regards the maintenance payable to the son at the rate of Rs.15,000/- per month.

7. Mr. Hartalkar, submits that in case, there is any outstanding towards the interim maintenance payable to the son, the said amount will be paid directly in the bank account of son, within a period of two weeks from today.

8. The outstanding amount from the date of the application till February 2023 at the rate of Rs.50,000/- per month would be directed paid by the husband in the bank account of wife, within a period of two weeks from today.

9. Mr. Nahata, has raised an issue of enhancing to the interim maintenance payable to the wife.

10. Mr. Hartalkar, learned counsel for the respondent opposes this application on instructions from his client. The wife has sought interim maintenance at the rate of Rs.1,00,000/- from 11 June 2019. However, the Family Court on 25 January 2023 has granted interim maintenance at the rate of Rs.50,000/- per month.

11. Wife is granted liberty to file application for enhancement before the Family Court within a period of four weeks from today. The Family Court Mumbai after accepting the reply from the husband, should decide the said application for enhancement within a period of further six months.

11. The Writ Petition is disposed of accordingly.

(RAJESH S. PATIL, J.)