

Iresh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3030 OF 2024

WITH

WRIT PETITION NO. 3032 OF 2024

Ujwala Appaji Bongale

.....Petitioner

Vs.

IRESH
MASHAL

Appaji Maruti Bongale and Ors

.....Respondents

Mr. Bhushan U. Deshmukh a/w Mr. Shashank S. Patore for the petitioner

Mr. Ajinkya Udane a/w Mr. Vinayak Pandit a/w Ms. Sharmila Vasave, Maitrayee Garade for the respondents

CORAM : GAURI GODSE, J.

DATE : 21st AUGUST 2024

ORDER:

1. Learned counsel for the petitioner submits that respondent is in arrears to the tune of Rs. 7,00,000/- as on date. He submits that an application was filed at Exhibit 187 for invoking action of non compliance of order passed below Exhibit 5.

2. He further submits that order passed below Exhibit 5 was modified in appeal filed before the Sessions Court and in view of the

modified order, respondent is under obligation to comply the order passed below Exhibit 5 and pay the amount of maintenance for the petitioner and the minor child. He submits that in view of the modified order, respondent is also required to pay the equated monthly installments ('EMI') towards the flat which stands in the joint name of the parties. He submits that the petitioner has not paid EMI and hence, proceedings have been initiated for auction of the flat. He further submits that the respondent in breach of the order has also created third party interest in the flat. He therefore submits that the petitioner's application at Exhibit 187 needs to be allowed, however, by the impugned order, learned Judge has directed to keep the application pending till the date of final Judgment.

3. Application Exhibit 184 is filed by the petitioner seeking directions for return of her articles which are lying in the flat under dispute. Learned Judge of the Family Court has also kept the said application pending till the date of final Judgment. He submits that in view of the aforesaid, the petitioner is unable to get her articles back which are lying in the disputed flat.

4. Prima facie I find substance in the arguments made by the learned counsel for the petitioner.

5. Learned counsel for the respondent submits that respondent is not in any arrears and the orders have been complied with. Statement made on behalf of respondent is accepted.
6. Respondent shall file an affidavit in support of the aforesaid statement with supporting documents to show that the order passed below Exhibit 5 and modified by the learned Sessions Judge is complied with.
7. Learned counsel for the respondent seeks time to go through the papers.
8. By order dated 29th July 2024, this petition was directed to be listed today by way of last chance to the respondent. However, today again, learned counsel for the respondent seeks time.
9. In view of the request made by the learned counsel for the respondent, list the petition on 18th September 2024. To be listed under the caption for "Urgent Admission".
10. It is clarified that if the petition is not argued on behalf of the respondent, appropriate orders will be passed on the next date.

[GAURI GODSE, J.]