



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Writ Petition No.7153 of 2023
SANJAY S/O MANOHARRAO LUTHADE
VS
SAU. SUVARNA W/O SANJAY LUTHADE

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri D.V. Mahajan, Advocate for the Petitioner/s
Shri A.N. Jaiswal, Advocate for the Respondent-sole

CORAM : ANIL S. KILOR, J.
DATED : 04.01.2024

1. Heard.
2. In this petition, the order below Exh.13 passed by the learned Family Court No.4, Nagpur in Interim Application No.649 of 2021 in Petition No.A-732 of 2020, allowing the application Exh.13 and thereby directing the petitioner to pay Rs.10,000/- to the respondent towards maintenance pendent lite from the date of the application, till final disposal of the main petition, is under challenge in this writ petition.
3. Admittedly, the petitioner did not file any reply to the application filed under Section 24 of the Hindu Marriage Act, 1955. The reason stated by the petitioner is that, as his mother was ill and subsequently died, he could not file the reply.
4. From the record, it is also apparent that in the Domestic Violence Proceedings, in cross-examination recorded in the month of August 2021, the respondent admitted that she has

been receiving Rs.3,500/- per month for each block and total blocks are five.

5. It is further apparent on the face of the impugned order that this point was not considered by the learned Family Court No.4, Nagpur for the reason that no reply was filed by the petitioner.

6. In that view of the matter, since the above referred admission goes to the root of the matter and decides the entitlement of the respondent to receive the maintenance amount, I am of the opinion that it would be in the interest of both the parties to remit the matter back to the learned Family Court No.4, Nagpur to decide the same afresh. Accordingly, I pass the following order:

(i) The writ petition is partly **allowed**.

(ii) The impugned order below Exh.13 dated 11.08.2022 passed by the learned Family Court No.4, Nagpur, is hereby quashed and set aside.

(iii) The matter is remanded back to the learned Family Court No.4, Nagpur for the deciding the application Exh.13 afresh, after granting an opportunity to the petitioner to file his reply and after hearing both the parties.

iv) It is informed that the matter is fixed on 19.01.2024, the petitioner is granted liberty to file reply, if any, on next fixed date and thereafter, the learned Family Court No.4, Nagpur may decide the application Exh.13 within two months, after hearing both the parties.

Accordingly, the writ petition is disposed of in the above terms. No order as to costs.

[ANIL S. KILOR, J.]