



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

911 WRIT PETITION NO. 9884 OF 2023

TRUPTI DEEPAK RAJPUT ALIAS TARACHAND BEDWAL
VERSUS

DEEPAK SHANTILAL RAJPUT

Mr.V.S.Palsikar, Advocate for the petitioner.

Mr.A.R. Borulkar, Advocate for the respondent.

CORAM : KISHORE C. SANT, J.

DATE : 14.02.2025

PC :-

01. Heard learned Advocates for the parties.

02. This petition is filed against an order passed by the learned Judge, Family Court, Aurangabad, dated 30.01.2023 below application Exh.17 in Petition No. A-406 of 2020. The petitioner-wife had filed an application under section 24 of the Hindu Marriage Act, in the proceeding seeking divorce. There, she filed application seeking interim maintenance of Rs.10,000/- per month.

03. During the course, it has come on record that the wife is earning Rs.16,000/- per month. The respondent-husband is working as QA Analyst (Chemist) and his monthly income is Rs. 21,977/-.

04. It is case of the wife-present petition that she is staying with her son and therefore she requires to spend more amount than she earns; whereas the respondent husband is staying alone and is earning about Rs.22,000/- per month. Considering standard of living, an amount of Rs.10,000/- needs to be paid to her and her son towards maintenance.

05. The learned Trial Court considered the provisions of Section 24 and held that it is only the spouse i.e. husband or wife, who can claim *pendente lite* maintenance under section 24 of the Act. In the said section, there is nothing to indicate that even a child can seek maintenance under section 24 of the Act. Thus, the Trial Court rejected the application.

06. Learned Advocate for the petitioner vehemently argued that the Trial Court has considered the section in a narrow meaning. In-fact, the amount of maintenance to wife needs to be looked as an amount she required to maintain herself and children, if staying with her. Ultimately, she has to even look after the children staying with her. He relies on the judgment of the Hon'ble Apex Court in the case of **Smt. Jasbir Kaur**

Shegal Vs. The District Judge, Dehradun & Ors., reported in 1997 (Supp) 3 SCR 529. The Hon'ble Apex Court in the said judgment considered the provisions of Section 24 of the said Act. It is held that though section 24 only speaks of about maintenance to wife during the pendency of the proceeding, however, this section can not be read in isolation and cannot be given restricted meaning to hold that it is a maintenance of wife alone and no one else. It is further held that the right to claim maintenance would include even the maintenance towards children. He further relies upon an order passed by this Court at Principal Seat at Mumbai in the case of **Swapnil Rajendra Shete Vs. Priyanka @ Prajakta Swapnil Shete [WP No.6544 of 2018]**. In the said case, this Court also taken a view that the provisions of section 24 of the Act are to be read by giving wide meaning.

07. Learned Advocate Mr.Borulkar for the respondent submits that the Trial Court has rightly passed the order. He submits that section 24 of the Act nowhere speaks about right of maintenance to the children. The wording clearly shows that it is either wife or husband, who are entitled to claim maintenance *pendente lite*. He also further submits that the section clearly stipulates that where in any proceeding under this Act it appears to the court that either the wife or the husband, as the case

may be, has no independent income sufficient for her or his support and the necessary expenses on the proceeding, it may, on the application of the wife or the husband, order the respondent to pay to the petitioner the expenses of the proceeding, and monthly during the proceeding such sum as, having regard to the petitioner's own income and the income of the respondent, it may seem to the court to be reasonable. He submits that in the present case, it has already come on record that the wife is earning salary of Rs.16,000/-. Looking to the difference in the salary of both the wife and husband, it can clearly be said that the standard of the husband is not better than the standard of wife. He thus, prays, for rejection of the petition.

08. After considering the arguments of both the sides, this Court finds that the Hon'ble Supreme Court has as back as in 1997 has held that Section 24 cannot be given a narrow meaning. It will have to be considered widely. When the wife is staying with children, certainly she required more amount for maintenance, as per her standard of living. Similar view is taken by this Court in **Swapnil Rajendra Shete (supra)**. Considering all the above, this Court finds that the Trial Court has taken too technical approach in rejecting the application.

09. Therefore, following order :-

ORDER

- i. This Writ Petition is allowed.
- ii. Respondent-husband is directed to pay Rs.5000/- (Rupees Five Thousand) per month towards maintenance to the petitioner-wife from the date of filing of the application.
- iii. The Trial Court is expected to dispose off the proceeding as early as possible and preferably before 30th June, 2025.
- iv. The Writ Petition is disposed off with no order as to costs.

[KISHORE C. SANT, J.]