



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5038 OF 2024

Digambarrao Bhimrao Kirole

VERSUS

Lalita Digambarrao Kirole

- Mr. S. B. Ghatol Patil, Advocate for the Petitioner
- Mr. Anand D. Gadekar, Advocate for the Respondent

CORAM : R. M. JOSHI, J

DATE : SEPTEMBER 25, 2025

PER COURT :

1. This Petition takes exception to the order dated 21.03.2024 passed below Exh. 5 in Petition No. A-370/2021 by the Family Court, Nanded whereby the Trial Court has refused to grant interim maintenance to the Petitioner/Husband.

2. It is the case of the Petitioner before Trial Court that he is a home maker and Respondent/Wife is Government employee. He claims to be senior citizen and having no independent source of income. He, therefore, filed an application for seeking interim maintenance from Respondent/Wife. It is claimed that the wife being a Government Servant earns salary of Rs. 55,000/- per month. It is further claimed that the daughters of the

Petitioner and Respondent are married and working. On this case being sought to be made out, order of interim maintenance was sought in proceeding filed by Wife under the provisions of Protection of Women from Domestic Violence Act, 2005 (for short '**PWDV Act**').

3. Application was opposed by Respondent by contending that the Petitioner is residing in the house along with his parents and loan obtained for the purchase of the said house has been repaid by Respondent. She further claims that she has already retired from service and is surviving barely on pension received.

4. Learned Trial Court rejected the Application. Hence, this Petition.

5. Learned Counsel for the Petitioner submits that Husband has a right to get maintenance from wife under Section 24 of the Hindu Marriage Act, 1955, in case he is unable to maintain himself. It is his submission that the Trial Court has recorded incorrect findings with regard to the place of residence of the Petitioner, so also the income received by the

Respondent by way of pension.

6. Learned Counsel for the Respondent supported the impugned order. According to him, Petitioner is able body person without any disease and in the facts of the case, order impugned does not deserve interference.

7. In exercise of writ jurisdiction, the Court may cause interference in the order impugned before it in case the order is shown to be perverse. Perusal of the record indicates that the Trial Court on the basis of material placed before it recorded the findings that the Respondent is already retired and earning approximately Rs. 20,000/- as pension. If it is the case of the Petitioner that she was earning Rs. 55,000/-, amount of pension is less than half of the amount, which is rightly claimed to be necessary for her own survival. Moreover, there is absolutely no material to indicate that the Petitioner is incapacitated from earning anything. Even accepting the right of husband to claim maintenance, a case is not made out herein to grant the same.

8. Having regard to the aforestated facts, this Court finds no reason to cause any interference in the impugned order. It would be open for the Trial Court to decide the said issue on merit after giving opportunity of leading evidence to both sides.

9. Learned Counsel for the Petitioner seeks leave to file appropriate application before the Trial Court for expeditious disposal of the proceedings.

10. If any such application is moved, depending upon the pendency, Trial Court to consider such Application.

11. Petition stands disposed of in above terms.

(R. M. JOSHI, J.)