



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

970 WRIT PETITION NO. 12127 OF 2024

SHITAL JAYANT AMBIKAR
VERSUS
JAYANT GOVIND AMBIKAR

Mr. S. P. Bhadge, Advocate for the petitioner
Mr. Shaikh Sohail Subhedar, Advocate for respondent

CORAM : R. M. JOSHI, J.
DATE : 2nd MAY, 2025

PER COURT :-

1. This petition takes exception to the order dated 20/08/2024 passed in interim Application No. 148/2023 in Petition No. A-458/2022 by Family Court, Aurangabad.
2. The petitioner is respondent's wife. Respondent filed Petition bearing No. A-458/2022 for seeking divorce. In this proceeding petitioner filed application for interim maintenance under Section 24 of the Hindu Marriage Act. The family court rejected this application solely on the ground that the petitioner is granted interim maintenance in the proceeding under the Protection of Women From Domestic Violence Act (for short 'DV Act') and that the said order granting maintenance came to be passed in her favour in the year 2019, but she has not made any application for enhancement of the maintenance before the said Court.

3. Learned counsel for the petitioner submits that the application for the maintenance under Section 24 of the Act cannot be dismissed on this ground. According to him, at the most it is open for the Family Court to consider the amount of interim maintenance granted in favour of the petitioner in previously instituted proceeding and then to determine amount of maintenance.

4. Learned counsel for the respondent tried his best to support the impugned order. According to him the petitioner on one hand is causing delay in hearing proceeding bearing No. 73/2019 under the DV Act and on other hand seeks maintenance order from the Family Court.

5. The law on the point of grant of maintenance is settled to say that the Court is required to take into consideration the order/orders passed by the Competent Court under different enactments previously granting the amount of maintenance. It is after adjustment of the said amount, any party makes out the case for grant of additional maintenance, such order could certainly be passed. It is however not open for the Court to reject the application solely on the ground that there is no application for enhancement of the interim maintenance in such previously instituted proceeding. Learned Judge of Family Court therefore fell in error to reject application for maintenance under Section 24 of the Act, solely on the ground that petitioner herein has not made

application for enhancement of maintenance in the proceeding under DV Act. Hence, order impugned cannot sustain and deserves to be set aside.

6. At this stage learned counsel for the petitioner undertakes to proceed with the petition filed by the respondent as well as the proceeding filed by the petitioner under the DV Act without any delay. Statement is accepted as undertaking.

7. Petition stands allowed. Impugned order is set aside. Interim Application No. 148/2023 is relegated back to the Family for decision afresh in accordance with law. Both Family Court as well as the Court entertaining proceeding under DV Act between parties to make endeavour to decide the matters as expeditiously as possible.

(R. M. JOSHI, J.)

ssp