

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3321 OF 2023**

Shrikrishna Yeshwant Maharaj,
Age: 65 Years, Occu.: Business,
R/a. 355, 'B' Ward, Gurumaharaj Wada,
Mangalwar Peth, Kolhapur.Petitioner

Vs.

Meena Shrikrishna Maharaj,
Age: 61 Years, Occu.: Nil,
R/o.107, Shivshakti, Salokhenagar,
Kolhapur.Respondent

Mr. Rahul Prakash Walvekar, for Petitioner.

Mr. Abhijit M. Adagule with Ms. Manjiri Kulkarni, for Respondent.

CORAM : S. G. CHAPALGAONKAR, J.

RESERVED ON: 7th NOVEMBER 2025

PRONOUNCED ON : 20th NOVEMBER 2025

JUDGMENT :-

1. The present Writ Petition takes exception to order dated 9th November 2022 passed by learned Judge, Family Court at Kolhapur below Exhibit 11 in Petition No.A-38 of 2021, whereby interim maintenance is granted in favour of Respondent-wife. The marriage between Petitioner and Respondent is solemnized in the year 1987. The couple is blessed with son namely Abhiram, in the year 1988. Since birth of son, Respondent alleged to have abandoned company

of Petitioner. He filed Hindu Marriage Petition No.99 of 1991 seeking divorce on the ground of desertion. In that proceeding, Appellate Court passed decree of judicial separation. The Second Appeal No.481 of 1995 filed by Respondent-wife against said decree is pending till this date.

2. The Petitioner filed Petition No.A-38 of 2021 under Section 13 (1-A) (i) of Hindu Marriage Act, 1955 (For short, ‘HMA’) seeking decree of divorce. In that petition, Respondent-wife filed application below Exhibit 11 under Section 24 of HMA claiming maintenance of Rs.75,000/- per month. The parties have filed respective affidavits disclosing their assets and liabilities in terms of directions of Supreme Court in case of *Rajnish v. Neha & Ors.*¹ The Family Court, Kolhapur allowed application Exhibit 11 and directed Petitioner to pay maintenance of Rs.20,000/- per month in addition to Rs.5,000/- towards litigation expenses.

3. Mr. Rahul Walvekar, learned Advocate appearing for Petitioner would submit that Respondent is residing separately since 1988. She had sufficient sources of income. She never pursued proceeding for

¹ 2021 (2) SCC 324.

maintenance. Now, she is being maintained by son. Petitioner is aged about 70 years. He being retired person do not have much income. Mr. Walvekar further invites attention of this Court to observations of Division Bench of this Court in previous proceeding between the parties to contend that Respondent-wife refused to go back to stay in Wada of Petitioner-husband. The attitude on the part of Respondent-wife is wholly unreasonable and raises strong suspicion that application for maintenance has been taken out only to extract money from Petitioner-husband. The Court expresses that there cannot be sympathy for woman that uses estrangement which is caused arising from her own mentality.

4. Per contra, Mr. Abhijit Adgule, learned Advocate appearing for Respondent supports impugned order. He would submit that Respondent is also old lady having no source of income. The impugned order is passed after considering rival contentions, particularly income of husband and subsistence of relationship between the parties.

5. Having considered submissions advanced and on perusal of record tendered at service before this Court, it can be observed that

Respondent-wife is residing separately from Petitioner since 1988. There are multiple rounds of matrimonial proceedings between the parties. Respondent has filed Special Civil Suit No.506 of 1994 claiming maintenance of Rs.6,000/- per month under Sections 18 and 20 of Hindu Adoption and Maintenance Act, 1956, in which this Court granted maintenance of Rs.1,000/- per month. Thereafter, Respondent-wife had not claimed maintenance from Petitioner-husband.

6. In wake of matrimonial relationship between Petitioner and Respondent, Petitioner has responsibility to maintain Respondent-wife. The record indicates that Respondent-wife is residing with her son, who is in service. Petitioner has filed affidavit showing his return of income for assessment year 2021-22 as Rs.4,67,630/- apart from income from agriculture.

7. The aforesaid fact postulates both essential facts for grant of maintenance under Section 24 of HMA; that wife has no source of income to maintain herself and husband has failed to provide maintenance to her although having sufficient means. In that view of the matter, order granting interim maintenance cannot be faulted.

8. So far as quantum of maintenance amount is concerned, it is evident that Respondent never resided with Petitioner. Assuming the Petitioner's income in terms of income-tax return submitted by him, there is no difficulty for him to provide maintenance of Rs.1,80,000/- per annum to Respondent. Further, when Respondent-wife is residing with her son, it cannot be said that she cannot maintain herself. In result, interim maintenance amount can be modified to Rs.15,000/- instead of Rs.20,000/- per month as awarded by Family Court.

9. In result, Writ Petition is partly allowed.

10. The interim maintenance amount is modified to Rs.15,000/- per month to Respondent from 18th November 2021 till decision of Petition on merits. However, Petitioner shall pay litigation expenses of Rs.25,000/- to Respondent-wife.

(S. G. CHAPALGAONKAR, J.)

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signed by
RAJU
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