

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10835 OF 2024**

Annasaheb @ Anilkumar

Basappa Yelzare, Age: 54 Years,

Occu.: Professor, R/o. At post: Malgaon,

Tal.: Miraj, Dist.: Sangli.

.....Petitioner

Vs.

1. Manisha Anilkumar Yelzare,
Age: 44, Occu.: Housewife,

2. Mahesh Anilkumar Yelzare,
Age: 19 Years, Occu.: Education,
R/o.: 1182, E Ward, Takala,
PWD Housing Society, Building No.4,
Flat No.6, Dr. Aamte Way,
Takala, Kolhapur.

3. Yogesh Anilkumar Yelzare,
Age: 19 Years, Occu.: Education,
R/o.: 1182, E Ward, Takala,
PWD Housing Society, Building No.4,
Flat No.6, Dr. Aamte Way,
Takala, Kolhapur.

.....Respondents

Mr. Siddharth Shitole, for the Petitioner.

Mr. Satyaajeet Shirke, for the Respondents.

**CORAM : S. G. CHAPALGAONKAR, J.
RESERVED ON : 17th SEPTEMBER 2025
PRONOUNCED ON : 19th SEPTEMBER 2025**

JUDGMENT :-

1. Present Writ Petition takes exception to order dated 17th January 2024 passed by learned 4th Jt. Civil Judge, Senior Division, Kolhapur in Civil Miscellaneous Application No.275 of 2011, by

which maintenance amount has been enhanced from Rs.1,000/- per month to Rs.5,000/- per month.

2. Petitioner and Respondent No.1 married on 19th February 1995. Respondent Nos.2 and 3 are born out of their matrimonial relationship. Petitioner had filed Hindu Marriage Petition No.333 of 2005 for restitution of conjugal rights against Respondent No.1. In that proceeding, she had filed application seeking maintenance. On 20th November 2009 maintenance of Rs.1,000/- per month was granted to children, i.e., Respondent Nos.2 and 3. Later on, on account of rise of Petitioner's salary, owing to 6th Pay Commission, enhanced maintenance amount was claimed in C.M.A.No.275 of 2011. Learned Civil Judge, Senior Division, Kolhapur granted enhanced maintenance amount of Rs.5,000/- per month with effect from 20th January 2009, till Respondent Nos.2 and 3 attain age of majority.

3. Learned counsel appearing for Petitioner would submit that Petitioner has no objection to pay enhanced maintenance amount. However, he is aggrieved by direction to pay it with effect from 20th January 2009, particularly when, application seeking enhanced

maintenance amount was filed on 12th August 2011. He would, therefore, urge that liability to pay enhanced maintenance amount be fixed from date of filing C.M.A.No.275 of 2011 and seeks modification to that effect.

4. Learned Advocate appearing for Respondents, however, submits that Petitioner started receiving enhanced salary since 2009. Earlier assessment of maintenance was on the basis of his salary, prior to application of 6th Pay Commission. Therefore, trial Court has rightly granted enhanced maintenance amount with effect from 20th January 2009.

5. Having considered submissions advanced by learned Advocates for respective parties, it can be observed that in application under Section 24 of Hindu Marriage Act, 1955, Respondent Nos.2 and 3 were granted maintenance @ Rs.1,000/- per month vide order dated 20th November 2009. On 12th August 2011, Respondents filed C.M.A.No.275 of 2011 seeking enhanced maintenance. On 17th January 2024, trial Court finally decided application and enhanced maintenance amount @ Rs.5,000/- per month with effect from 20th January 2009.

6. In case of *Rajnish v. Neha & Ors*,¹ Supreme Court of India considered the issue as to what should be the date for grant of maintenance amount, in wake of divergent views of various Court. Supreme Court finally settled that grant of maintenance shall be from the date of application. In paragraph No.93, it is observed thus, “it has therefore, become necessary to issue direction to bring about uniformity and consistency in the orders passed by all Courts by directing that maintenance be awarded from the date on which application was made before the Court concerned. The right to claim maintenance must date back to the date of filing application, since the period during which the maintenance proceedings remained pending is not within the control of the applicant.”

7. In light of aforesaid exposition of law, if application seeking enhanced maintenance was filed on 12th August 2011, there was no rational for granting enhanced maintenance amount from 20th January 2009. Impugned order nowhere depicts as to why Court fixed date for commencement of enhanced maintenance amount as 20th January 2009. It is true that Respondents had claimed maintenance amount from 20th November 2009 for the reason that

1 2021 (2) SCC 324.

original order granting maintenance was passed on 20th November 2009. However, there is no reason to grant enhanced maintenance from that date, when claim for enhanced maintenance was first time raised on 12th August 2011.

8. In that view of the matter, Writ Petition is partly allowed.

9. Impugned order dated 17th January 2024 passed by learned Civil Judge, Senior Division, Kolhapur in C.M.A.No.275 of 2011 is modified as under:

“2. Petitioner (original Respondent) is hereby directed to pay enhanced maintenance amount of Rs.5,000/- per month to each of the applicant from 12th August 2011, till they attain the age of majority.”

(S. G. CHAPALGAONKAR, J.)

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RAJU
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GAIKWAD
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