

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.13939 OF 2023

Sheetal Sarang Thorat

...Petitioner

Versus

Sarang Shivaji Thorat

...Respondent

.....
Mr. D.V. Sutar a/w Ms. Kavita Vijapure and Ms. Latika Kabad,
for the Petitioner.

Mr. Yogesh Vijay Patil, for the Respondent.
.....

CORAM : MANJUSHA DESHPANDE, J.

DATE : 18th JUNE, 2025

P.C. :-

1. The Petitioner has challenging the order dated 24.07.2023 passed by the 3rd Joint Civil Judge Senior Division, Karad in application below Exhibit 39 in Hindu Marriage Petition No.189 of 2021.

2. It is the contention of the Petitioner that the Respondent-Husband has filed application for divorce on the alleged ground of mental disorder and cruelty under Section 13(1)(iii) and 13(1)(ia) of the Hindu Marriage Act, 1955, against the Petitioner-Wife before the 3rd Joint Civil Judge Senior Division,

Karad. During the pendency of the Hindu Marriage Petition, the Petitioner filed an application below Exhibit 39 for grant interim maintenance under Section 24 of the Hindu Marriage Act, 1955, claiming maintenance of Rs. 50,000/- per month to the Petitioner-Wife.

3. During the pendency of proceedings, both the parties have filed their affidavit of Assets and Liabilities. According to the affidavit filed by the Respondent-Husband, he has disclosed income of Rs 55,243/- per month. He has also disclosed the other liabilities, which are required to be borne by him. The affidavit filed by the Petitioner-Wife discloses that she does not have any source of income.

4. On the aforementioned background, the application below Exhibit 39 was heard and decided by the 3rd Joint Civil Judge Senior Division, Karad.

5. It is the contention of the Petitioner that in the affidavit filed by the Petitioner-Wife, she has categorically stated that she does not have any income as against that in the affidavit disclosing the Assets and Liabilities of the Husband, there is a disclosure about his salary of Rs. 55,243/-per month. Though

there are certain liabilities, the fact remains that he does have income. In spite of the affidavits being filed by the respective parties, the 3rd Joint Civil Judge Senior Division, Karad, has made an observation contrary to the record. The Petitioner-Wife does not have any source of income and hence, requires some maintenance for her day-to-day existence.

6. Per contra, learned Counsel appearing for the Respondent submits that though the affidavit of Assets and Liabilities is on record, which discloses that he has income of Rs. 55,243/- per month, the fact remains that he has various other liabilities and he has a responsibility of his daughter as well as parents. Therefore, he is unable to make any provision for separate maintenance for the Wife.

7. In view of submissions made by the respective Counsel and on perusal of the impugned order, it is evident that the order passed by the 3rd Joint Civil Judge Senior Division, Karad, is not only contrary to the record, but also lacks reason. While answering the point which was framed as under: “Whether opponent Shital is entitled for getting interim maintenance?”

8. It is merely held that since both the parties have made rival claims about having sufficient income against the other, there is no proof in support to their claims and considering that the matter itself is at such a stage that it can be disposed off, the application has been rejected. Since the say was filed by the opponent, it was held that main application itself has become ripe for trial and therefore, the main application would be decided and there is no point in wasting time by deciding the Interim Application. With such observations, the Interim Application has been rejected. Though the point was framed whether the Petitioner-Wife is entitled for interim maintenance without adverting to the documents produced on record and recording his finding on the merits of Application, the Civil Judge Senior Division, Karad, has passed an unreasoned order. Hence, such an unreasoned order is not at all sustainable. Therefore, the relief claimed by the Petitioner deserves consideration.

9. In my opinion, it would be appropriate to quash and set aside the impugned order and remand the matter back to the 3rd Joint Civil Judge Senior Division, Karad, for fresh

consideration and passing of appropriate orders after taking into consideration the documents and applicable law.

10. Considering that the proceedings before the 3rd Joint Civil Judge Senior Division, Karad, were stayed by the interim order granted by this Court, it is evident that it would take some time for the parties to lead evidence before the matter is finally decided, which again would require considerable time depending upon the workload with the particular Court. Hence, the impugned order is quashed and set aside. The matter is remanded for fresh consideration and passing of fresh orders on the Interim Application.

11. Considering that there is an observation made by the 3rd Joint Civil Judge Senior Division, Karad, that the suit is ripe, endeavour shall be made by the concerned Court to dispose off the main proceedings as early as possible.

12. Accordingly, the Writ Petition is disposed off.

[MANJUSHA DESHPANDE, J.]