IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO. 5424 OF 2024

1] Reema Prince Shah @ Mota
Adult, Hindu, Indian Inhabitant,
Age – 41 years, Occupation : Housewife;
Residing at : 1/12-13-14,
Damji Nenshi Chawl, Station Road,
Bhandup West, Mumbai 400 0078. …Petitioners
2] Aarna Prince Shah @ Mata
Age : 13 years, Hindu,
Through her mother Petitioner No.1,
Residing at : 1/12-13-14,
Damji Nenshi Chawl, Station Road,
Bhandup West, Mumbai 400 078.

Versus

Prince Pratap Shah @ Mota
Adult, Hindu, Indian Inhabitant
Age 41 years, Occupation : Managing Director,
(Bituen and Petroleum Products) …Respondent
Residing at 1/12, Damji Nenshi Chawl,
Station Road, Bhandup West,
Mumbai 400 078.

Mr. Hrishikesh Amembal i/b. Ms. Siddhi N. Sharma, advocate for the Petitioners.
Mr. Pankaj Pandey a/w. Smit Nagda, advocate for the Respondent.

CORAM: MANJUSHA DESHPANDE, J.

RESERVED ON : 07th NOVEMBER, 2025.
PRONOUNCED ON : 20th NOVEMBER, 2025.

JUDGMENT :

1. Rule. Rule returnable forthwith, the matter is taken up for final disposal with the consent of parties.

2. The petitioners are the wife and daughter of the sole respondent, who are challenging the order dated 13th October, 2023, passed by the 7th Family Court Judge below Exhibit–6 in Petition No. C–32/2021 granting interim maintenance at the rate of Rs.10,000/- per month to the Petitioner no.1 and Rs.5,000/- per month to petitioner no.2. Being dissatisfied with the amount of maintenance granted in their favour, the petitioners have approached this Court seeking directions to enhance the maintenance amount to Rs.1,00,000/- per month or any other amount as this Court deems fit.

3. The factual matrix giving rise to the present writ petition are that the petitioner no.1 and the respondent got married as per Hindu rites and customs on 24th May, 2004 at Ghatkopar, Mumbai. The petitioner no.2, daughter was born on 4th August, 2010. The petitioner no.1 and respondent resided in the joint family with the parents of the respondent. The petitioner no.1 has been a house wife all along, hence she is not financially independent. Their relationship went under turmoil, there are allegations and counter allegations made by the parties against each other. According to the petitioner, the respondent had ventured into many different businesses, however, when he suffered loss, he used to take out frustration on petitioner no.1, by being violent with her. The parties have also gone to the extent of making allegations of extra marital affair against each other.

4. It is alleged by the petitioner that, the respondent has been violent and has many times made demands of money and compelled her to give her gold ornaments to him. When the things went beyond her tolerance due to his cruelty, it became impossible for her to reside with him. Due to complete failure and avoidance by the respondent to maintain the petitioners, the petitioner no.1 having no independent source of income, was constrained to approach the Family Court at Bandra and file proceedings under Section 18(2)(a) and 18(2)(b) of the Hindu Adoption and Maintenance Act, 1956, seeking maintenance of Rs.1 lakh for the petitioner no.1 and to take responsibility of the expenses of their daughter for her education, higher studies, medical expenses, etc. or in alternative at least pay lump-sum amount of Rs.1 crores 50 lakhs towards her maintenance and education of their minor daughter.

5. During the pendency of the aforementioned proceedings, the petitioner has filed interim application for consolidated monthly maintenance of Rs.1 lac per month towards maintenance for herself and her daughter Aarna. The respondent has opposed the application by filing an affidavit on 4th November, 2022. After hearing the parties, the learned Judge of the Family Court has passed an order below **Exhibit 6** dated 13th October, 2023, by granting maintenance of Rs.10,000/ per month to petitioner no.1 and Rs. 5000 to petitioner no.2, respectively. It is on this premise being dissatisfied with the amount of maintenance granted to the petitioners they are approaching this Court, challenging the order impugned invoking its jurisdiction under Article 226 and 227 of the Constitution of India.

6. The learned counsel Mr. Hrishikesh Amembal for the petitioners submits that the order granting maintenance has been challenged by the petitioners on the ground that the respondent has suppressed his actual income before the Family Court. It is the contention of the petitioners that the documents produced by the respondent and the expenses shown by him are not at all in consonance with each other. Though he has shown salary of Rs.25,000/- per month, he himself is claiming that his personal monthly expenses under multiple heads i.e. medical bills, transportation etc. are to the extent of Rs.30,000/- per month. Additionally, according to him he is bearing all the expenses of their daughter and he is making payment of Rs.50,000/- towards food, clothing and medical expenses of their daughter alongwith fees of Rs.67,000/- and tuition expenses of Rs.20,000/-. It is therefore contended that, the respondent has not provided the correct information about the extent of his real income. His expenditure does not commensurate with the income claimed by him. He is the Managing Director of the company owned by him, yet he has shown his income of Rs.25,000/-, claiming that the company is running in losses.

7. It is further submitted that the EMI paid by the respondent towards the car loan, reflected in his bank statement is Rs.1,05,000/- per month, which is 4 times more than his alleged monthly income of Rs.25,000/. This contention stands supported by the extract of bank statement of Axis Bank Limited, of the account of the respondent for the period from 1st April, 2019 to 31st March, 2020. Even otherwise, no bank or financial institution in the country sanctions a loan on EMI which exceeds the amount of 20 to 30 % of the income of an individual.

8. It is further submitted that, after being accustomed to a particular standard of living, the petitioners are entitled for the same standard of life during the pendency of the substantive proceedings. The order impugned does not meet the ends of justice, since the amount of maintenance granted to the petitioner is grossly insufficient and inadequate even to lead a modest life in a city like Mumbai.

9. It is submitted that, the respondent is not only suppressing the material facts about his actual income but also making false claim about the income of petitioner no.1. On one hand, the Respondent is claiming that as a Managing Director of the company, he is earning Rs.25,000/- per month, while on the other hand it is alleged that, the petitioner no.1 is drawing a salary of Rs.50,000/-, from the same Company, which is a blatant lie and unbelievable.

10. The learned advocate for the petitioners submits that the company of which the respondent is a Managing Director has gone public with the launch of IPO, with an issue size of Rs.18.10 crores. Hence, it is unbelievable that, he is drawing a salary of Rs.25,000/- per month. Only for the sake of adjustment of account and convenience, the respondent has opened an account in the name of petitioner and transferred an amount of Rs.50,000/- per month in her account in order to reduce the tax liability, which now claimed to be her income. This aspect of the matter has not been appropriately appreciated by the learned judge of the Family Court.

11. My attention is drawn to the affidavit of assets and liabilities filed by the respondent on 13th March, 2023 alongwith the three salary slips of October, November and December 2021. It is submitted that, the Respondent has suppressed the latest salary slip and his actual income. The claim of the respondent about his income of Rs.25,000/- is further falsified by the bank statements of Punjab National Bank filed by him for the period from 1st April 2019 to 17th November, 2022. There are consistent entries of deposits of sizeable amounts in that account. His closing balance for the period 1st April, 2019 to 31st March, 2020 in Axis Bank discloses transactions of Rs.2,32,05,064/- in that financial year. This according to the learned counsel for the petitioners is unusually high for someone with monthly income of Rs.25,000/-.

12. Simultaneously, relying on the petitioner no.1's own affidavit of assets and liabilities and her bank statement, it is submitted that, she does not have any independent source of income and with a growing daughter of 13 years, it is difficult for her to make the ends meet. The bank statements of HDFC Bank attached with the affidavit of assets and liabilities for the period, 1st January, 2021 to 10th March, 2023, reflects deposits of paltry amount in her account. The income tax returns have been filed only for the year 2021 i.e. for the period prior to their separation. After their separation, with no source of income, it has become difficult for the petitioner no.1 to maintain herself and her daughter. Therefore, she is constrained to file application for interim maintenance claiming consolidated amount of Rs.1,00,000/- towards monthly maintenance for herself and their daughter Aarna.

13. In her application, there is a specific averment that, so far she has managed by borrowing from her father and brother to fulfill her daily needs of food, clothing, medicines etc., which requires atleast Rs.1,00,000/- per month. It is contended that considering the lifestyle to which the petitioners are accustomed to, the prayer of the petitioner deserved to be granted by the learned Judge of the Family Court. However, without taking into consideration the affidavit of assets and liabilities and the averments made by the petitioners herein, the impugned order came to be passed which deserves to be modified by granting an enhanced amount as prayed for by the petitioners.

14. Per contra, learned counsel Mr. Pankaj Pandey appearing for the respondent husband submits that, he is liable to pay an amount of Rs.1,65,000/- at the rate of Rs.10,000/- per month to the petitioner no.1 and Rs.5,000/- per month the petitioner no.2, as directed by the order dated 13th October, 2023, passed by the Family Court, Bandra, Mumbai. An amount of Rs.1,65,000/- was outstanding, but on the date when his affidavit in the present Writ Petition has been filed, he has partially paid the amount, with the help from his sister. He has paid Rs.88,872/- towards school fees of petitioner no.2 on 9th March, 2024; paid Rs.4,200/- towards school essentials for petitioner no.2 on 9th March, 2024; paid Rs.3,761/- towards the expenses of books; and also transferred Rs.30,000/- to the account of petitioner no.1 via Google Pay on 11th March, 2024. It is his contention that he still looking after the expenses and necessities of the petitioners. This can be discerned from the fact that he has made payment of Rs.11,000/- to the carpenter to do the carpentry work in their matrimonial house at Bhandup, Mumbai. Through two transactions dated 29th July, 2024 and 2nd August, 2024, the respondent has transferred amount of Rs.10,000/- and Rs.17,250/-, in the account of petitioner no.1. It is submitted that from the above transactions, it can be gathered that, he is taking care of the necessary expenses of the petitioner no.2 as well as the petitioner no.1 as and when his finances permit.

15. It is further submitted that although he is the Managing Director, in Omnipotent Industries Limited, which deals in business of Bitumen, the company presently is undergoing losses due to unstable international market, which is beyond the control of the respondent. There are claims of the authorities on the company, as a result of which he is facing severe financial hardships, he himself is surviving by borrowing loans from his family and friends. It is his contention that, he is not at all in a position to pay maintenance, however, as and when his finances permit, he will try to honour the orders passed by the Courts. It is also submitted that it is only on account of financial constrains he could not challenge the orders passed by the Family Court, however, he has every intention to abide by the orders and so far he has tried to comply with the orders passed by the Family Court.

16. I have heard the respective parties. Perused the impugned order and the documents placed on record. The Interim Application has been filed by the petitioners seeking directions to pay a sum of Rs.1,00,000/- per month towards the monthly maintenance of the petitioners. This application has been filed during the pendency of a substantive petition for maintenance under Section 18(2)(a) and (b) of the Hindu Adoption and

Maintenance Act, 1956. It is submitted by the petitioners that since their separation from February 2021, the respondent has stopped making any payment for their daily expenses. Petitioner no. 1 being the homemaker, has no other source of earning, hence, she is not in a position to manage her day to day expenses. She is being harassed by the respondent, as she has not acceded to his demand for Divorce. Because of the violent tendencies of the respondent, she has also filed one NC complaint against him on 3rd May, 2021.

17. The petitioner no.1 has made a specific averment in her application that, being homemaker, she has no source of income. She is also having responsibility of a young daughter. Due to failure by the respondent to maintain the petitioners, she is constrained to borrow loan from her father and brother for their survival and day to day expenses. She has given the list of expenses alongwith her application in support of her claim of Rs.1,00,000/- per month. It is contended that the respondent owns various properties, such as one duplex flat of 1000 square feet in Bhandup (West), Mumbai worth Rs.1.5 crores; lavish office at 1/11 Damji Nemji Chawal, Bhandup (West), Mumbai worth Rs.1 crore; a two BHK flat at Namo Shiovastu Building at Palghar worth Rs.35 lakhs; one flat in the same building at Palghar worth Rs.15 lakhs. The petitioner no.1 also claims that the respondent has purchased a farm land in Kutch in Rapar Taluka worth Rs.25 lakhs; in addition to that he owns one BHK flat at Kalher, Bhiwandi worth Rs.30 lakhs in addition he also owns one four wheeler. Though he himself is leading comfortable and lavish lifestyle, using expensive mobile handset, paying heavy credit bills, he is depriving the petitioners of the same lifestyle.

18. In response to the averments made in the application, the respondent has filed reply opposing the prayer made by the petitioners. According to him, the petitioner no.1 has sufficient resources, the petitioner no.1 had Rs.2,25,000/- cash in hand in the month of February 2021. So far her daily needs are concerned, there is a wholesale market near her residence. Therefore, it is not necessary for her to travel for making purchases of basic necessities. It is further claimed that all the necessary expenses for petitioner no.2 is borne by him. He also claims that the petitioner no.1 is employed in a company, with monthly salary of Rs.50,000/- per month. As regards the properties and his income, he has categorically denied of owning various properties, as claimed by the petitioners. According to him, he is not at all living a lavish life, but, moderate life by maintaining his aged mother and sister out of his income. At the same time he is also taking care of the needs of their daughter from time to time. He has asserted that he is responsible for maintaining their daughter, till she becomes capable to take of herself.

19. Upon perusal of affidavit of the assets and liabilities filed by the parties, it discloses the wife has filed affidavit on 13.03.2023 alongwith statement of account of HDFC bank from 01.04.2021 to 10.03.2023. On perusal of the statement of account, except two entries of Rs.2,96,184.59 on 3.05.2021, and Rs.2,54,277/- dated 25.08.2021, rest of the entries are of paltry amount of Rs.4,000/-, Rs.2,000/- and likewise. From the bank statement it is evident that the petitioner no.1 does not have any regular source of income for her survival. Though she has claimed that, the monthly income of respondent is Rs.10,00,000/-, she has not attached any document to support her claim.

20. The respondent has also filed Affidavit of assets and liability dated 13.03.2023. Alongwith his affidavit he has submitted bank statement of the Axis Bank from 01.04.2019 to 31.03.2020, 1.4.2020 to 31.3.2021 and 1.4.2021 to 3.08.2021, IDFC Bank statement of 3.08.2021 to 17.11.2022, Dhanlaxmi Bank statement for the period 01.04.2020 to 01.11.2022 and Punjab National Bank statement for the period 01.04.2019 to 17.11.2022.

21. The two conspicuous aspects which can be discerned from the affidavit of assets and liability filed by the respondent are that, on one hand he is claiming that he has fixed monthly income of Rs.25,000/- in capacity of Managing Director of his Company, M/s. Omnipotent Company, while the bank statement of Punjab National Bank reflects regular deposits of lakhs of rupees. In the bank statement of 01.4.2021 to 31.3.2022, as also for the period 01.4.2022 to 17.11.2022, there are consistent deposit of Rs.1,00,000/- on various dates. These entries in the bank statement falsifies the claim of the respondent that he has an income of Rs.25,000/- per month. Even the lifestyle reflected through the expenses shown by him by attaching bills towards food, clothing and medical expenses for petitioner no.2 daughter Aarna does not justify his income of Rs.25,000/- per month. He himself in his affidavit claim that, he has spent Rs.50,000/- towards food clothing and medical expenses of petitioner no.2, and for her fees supported by invoices attached to the affidavit. Though he has claimed that he has borrowed a personal loan of Rs.1 lakh, it is not supported by any proof.

22. After going through the order passed by the learned judge 7th Family Court, Mumbai, it appears that the learned Judge relied on the copies of ITR for the assessment year 2022–2023, 2021–2022, 2020–2021 which discloses that his total income for the respective assessment years was Rs.5,32,720/-, Rs.4,97,140/- and Rs.5,13,310/-. The reliance placed by the learned Judge of the Family Court on the ITR's is overlooking the bank statements which also forms part of the record. It would be apposite to refer to the observations made by the Hon'ble Supreme Court about the extent to which the Courts can rely on the ITR furnished by the parties to determine the real income of the parties. In the reported judgment in the case of ***Kiran Tomar & Ors. Vs. The State of Uttar Pradesh and Anr.***,[1] the Hon'ble Supreme Court has made observations in paragraph 10 of the order read thus:

> *"On the first aspect, it is well-settled that income tax returns do not necessarily furnish an accurate guide of the real income. Particularly, when parties are engaged in a matrimonial conflict, there is a tendency to underestimate income. Hence, it is for the Family Court to determine on a holistic assessment of the evidence what would be the real income of the second respondent so as to enable the appellants to live in a condition commensurate with the status to which they were accustomed during the time when they were staying together. The two children are aged 17 and 15 years, respectively, and their needs have to be duly met."*

23. The bank statements of the joint account held by the respondent alongwith petitioner no.1 in Axis bank from 1.4.2019 to 31.3.2020 discloses that the respondent has regularly paid

1 2022 SCC OnLine SC 1539

monthly EMI for the car loan of Rs.1,05,560/-. Similarly, the extracts of the bank statement of Punjab National Bank at Bhandup, Mumbai, discloses regular deposits of sizable amounts in the said account. On 07.01.2022 alone, four deposits of Rs.2,00,000/- were made. Between August 2021 and April 2022, further deposits ranging from Rs.4,00,000/- to Rs.12,00,000/- were made on multiple occasions, followed by regular deposits of Rs.1,00,000/- thereafter. Hence, these entries in the bank statement reflects regular income of the respondent which makes the affidavit of assets and liabilities filed by him unreliable. Thus, it is evident that, the respondent has sufficient means to maintain the petitioners, yet he is avoiding to maintain petitioner no.1 because of their personal differences. A note also needs to be taken of the fact that, he is spending an amount of Rs.50,000/- on the petitioner no.2 as per his own affidavit. Hence, the only conclusion that can be drawn is that, respondent has avoided and neglected to maintain the petitioners on account of which the petitioner no.1, who is a homemaker is facing severe financial hardships, which needs to be remedied. Though the Family Court has granted an amount of Rs.10,000/- and Rs.5,000/- each to the petitioners, it is not at all a reasonable amount

24. In my view, though the petitioner has claimed Rs.1,00,000/- per month towards interim maintenance during the pendency of proceedings under Section 18 of the Hindu Adoption and Maintenance Act, it would be just and proper to grant maintenance of Rs.60,000/- per month to the petitioners. More particularly, in view of the fact that, the petitioner herself in her affidavit of assets and liabilities has stated that, the respondent has been involved in Money Laundering case, for which he was behind bars for two months hence it can certainly be assumed that the respondent may be facing financial crunch to some extent due to his involvement in the criminal case. However, that does not absolve him from his familial responsibility of maintaining his wife and daughter. The regular entries of considerable amounts in his bank account in the Punjab National Bank justifies the claim made by the petitioner. The learned judge of the Family Court has heavily relied on the Income Tax returns while deciding the application of the petitioners, which does not depict the correct picture of the income of the respondent. The learned Judge out to have taken into account the deposits of seizable amount reflected from his account statement of Punjab National Bank, which depicts the correct picture of the financial status of the respondent. Hence in my view it would be appropriate, to modify the order passed by the 7th Family Court by granting a lump-sum amount of Rs.60,000/- per month to the petitioners towards their maintenance during the pendency of Petition No. C–32/2021 on the files of the Judge, Family Court, Bandra.

25. The respondent is directed to make payment of Rs.60,000/- per month to the petitioners before 5th day of each month by depositing it in the personal account of the petitioner no.1, till the disposal of the pending proceedings.

26. Writ petition is partly allowed and is disposed in the aforementioned terms.

27. Rule is made absolute in the above terms.

(MANJUSHA DESHPANDE, J.)