

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 14389 OF 2024

Mr. Soham Chandrashekhar Gadgil .. Petitioner

Versus

Mrs. Aarti Sham Gadgil .. Respondent

Mr. Jaydeep Deo for the Petitioner.

Ms. Sangeeta S. Vaidya for Respondent.

CORAM: FIRDOSH P. POONIWALLA, J.

RESERVED ON : 29th November, 2024.

PRONOUNCED ON : 3rd January, 2025.

JUDGEMENT:

1. This Writ Petition is filed challenging the Order dated 10th September, 2024 passed by the Family Court, Pune. By the said Order, the Petitioner-husband has been directed to pay to the Respondent-wife an amount of Rs. 75,000/- per month as interim maintenance.
2. Mr. Jaydeep Deo, the learned Advocate appearing on behalf of the Petitioner, took me through the impugned Order dated 10th September, 2024.
3. Mr. Deo submitted that the Respondent, in her Affidavit of Assets and Liabilities, had stated that she was carrying on business but

the same was closed. However, she has not produced any proof that the said business was closed. Mr. Deo also referred to the Linked in profile of the Respondent which stated that she was a business owner. Mr. Deo submitted that, since the Respondent was carrying on business, interim maintenance of Rs. 75,000/- per month should not have been granted to the Respondent.

4. Mr. Deo further submitted that the Petitioner earns only Rs.1,00,000/- per month as salary and, from that amount, he looks after the expenses of his son. Therefore, he cannot be expected to pay maintenance of Rs. 75,000/- per month to the Respondent.
5. As far as the contention of the Respondent that the Petitioner's father, Chandrashekhar Gadgil, own 9436 shares, his mother Alka owns 10,434 shares and Respondent owns only one share in the family company called "Soham Surface Coatings Pvt. Ltd", Mr. Deo submitted that there was nothing unusual about it. He submitted that it was not that, earlier, the Petitioner was holding more shares but now he was holding only one share. Mr. Deo submitted that, therefore, the argument of the Respondent, that the Petitioner was deliberately holding only one share to avoid paying maintenance, cannot be accepted.
6. Further, Mr. Deo submitted that the properties and cars that the Respondent had referred to, were standing in the name of the family

company of the Petitioner, and not in the name of the Petitioner. He submitted that the Family Court, Pune, had erred in considering the same while granting interim maintenance.

7. Further Mr. Deo referred to page 223 of the Compilation of the Documents filed by the Petitioner to show that the Petitioner was earning only Rs. 1,00,000/- per month from his family company “Soham Surface Coatings Pvt. Ltd”.
8. In support of his submissions Mr. Deo relied upon a Judgement of the Hon’ble Supreme Court in *Manish Jain Vs. Akanksha Jain*¹
9. Ms. Sangeeta Vaidya, the learned Advocate appearing on behalf of the Respondent, opposed the Petition. Ms. Vaidya submitted that, at present, the education of the Respondent was outdated. She further submitted that the Respondent was not carrying on any business and there was nothing on record to show that any business was being carried out by the Respondent.
10. Ms. Vaidya referred to the photographs at pages 201 and 202 of the Counter Affidavit dated 15 November, 2024 filed by the Respondent and submitted that the same clearly showed that the Petitioner’s family was the owner of bungalows and expensive cars like Mercedes and Audi.

¹ (2017) 15 SCC 801

11. Ms. Vaidya also referred to the bank statements of the Petitioner at page 243 of the Counter Affidavit and said that the same showed that the Petitioner's mother had deposited amounts of Rs. 2,00,000 and 1,00,000 in his account. Ms. Vaidya also referred to page 251 of the Counter Affidavit which showed that the Petitioner had received a refund of Rs. 2,57,684/- from Yatra OnLine Pvt. Ltd and submitted that this refund from a travel site clearly showed the standard of living of the Petitioner.
12. Ms. Vaidya, also referred to page 224 of the Compilation of Documents filed by the Petitioner which showed that, apart from receiving Rs. 1,00,000/- per month as remuneration from the family company, Soham Surface Coatings Pvt. Ltd., the Petitioner had also received a sum of Rs. 13,00,000/- in addition to the same as director's remuneration.
13. Ms. Vaidya submitted that the aforesaid facts clearly showed that the Petitioner came from a wealthy family and it was being shown that he was receiving only Rs. 1,00,000/- per month as remuneration from the family company only in order to avoid paying maintenance. Ms. Vaidya submitted that, similarly, the properties and cars were not standing in the name of the Petitioner, to avoid paying maintenance.
14. Ms. Vaidya submitted that, in these circumstances, this Petition deserves to be dismissed.

15. I have heard the learned counsel for the parties and perused the documents on record.

16. Before considering the facts of the matter, it would be appropriate to refer to paragraph 16 of the Judgement in Manish Jain (supra) which reads as under:

“16. An order for maintenance pendente lite or for costs of the proceedings is conditional on the circumstance that the wife or husband who makes a claim for the same has no independent income sufficient for her or his support or to meet the necessary expenses of the proceeding. It is no answer to a claim of maintenance that the wife is educated and could support herself. Likewise, the financial position of the wife’s parents is also immaterial. The court must take into consideration the status of the parties and the capacity of the spouse to pay maintenance and whether the applicant has any independent income sufficient for her or his support. Maintenance is always dependent upon factual situation; the court should, therefore, mould the claim for maintenance determining the quantum based on various factors brought before the Court.”

17. In the said Judgement, the Hon’ble Supreme Court has held that the Court must take into consideration the status of the parties and the capacity of the spouse to pay maintenance and whether the applicant has any independent income sufficient for his or her support.

18. The Hon’ble Supreme Court has also held that maintenance is always dependent upon the factual situation, and the Court should, therefore, mould the claim

for maintenance, determining the quantum based on various factors brought before the Court.

19. Keeping these principles in mind, if one considers the facts of the present case, it is very clear that the Petitioner comes from a wealthy family which owns a company, properties and cars. Although the Petitioner is a director in the family company, his income is shown only as Rs. 1,00,000/- per month. It is obvious that the same has been done in order to show that the Petitioner only earns Rs. 1,00,000/- per month and, therefore, cannot pay higher maintenance. Further, although other family members of the Petitioner own thousands of shares of the family company, Soham Surface Coatings Pvt. Ltd, the Petitioner is shown as having only one share in order to show that the Petitioner is not wealthy and cannot pay higher maintenance. Further, it is also obvious that, although the family of the Petitioner owns various properties and cars, the same are not in the name of the Petitioner, in order to show that the Petitioner's financial

means are not good and he is not in a position to pay higher maintenance.

20. The aforesaid is substantiated by the fact that the record shows that the Petitioner's mother has deposited money in his accounts and also that the Petitioner had received a refund of Rs. 2,57,684/- from Yatra OnLine Pvt. Ltd. Further, as mentioned earlier, the Ledger account filed by the Petitioner itself shows that, in addition to the remuneration of Rs. 1,00,000/- per month, the Petitioner has also received, on 31st March 2020, remuneration of Rs. 13,00,000/-.

21. On the other hand, there is nothing on record to show that the Respondent is carrying on any business. The Respondent, on oath, has stated that she tried to start a business called Crunch Hive but the same did not work out. The Petitioner has not produced any other material on record, except the Linked in Profile of the Respondent, to show that the Respondent is carrying on business and earning money from the same. The Linked in Profile refers to the Petitioner as business owner but again does not

show that the Petitioner is carrying on any business at present and earning any money from the same.

22. In the light of the aforesaid, in my view the Family Court Pune, has correctly reached the conclusions at paragraphs 9 and 10 of the Order, which read as under.

“9. No doubt while deciding the interim maintenance U/s. 24 of Hindu Marriage Act only income is to be considered. U/s. 25 of the Hindu Marriage Act income and property should be considered. As discussed above U/s. 24 only income is to be considered and respondent has shown his income of Rs. 1 lakh per month. As discussed above the company in which the respondent is a director is having cars of which cost is approximately Rs. 75 Lakhs. His parents have acquired the bungalows in Pune city of which cost is in crores. Now question is why the respondent's parents have acquired huge property and money ? Why and for whom they have acquired the property ? Are they going to donate the property to Charitable institutions at the end of their life ? Answer is obviously no. Person acquires the property for his next generation otherwise for himself only food for two times, few clothes and shelter is sufficient. Respondent's parents have acquired the property in crores and ultimately respondent is the beneficiary of the said property.

10. As discussed above while deciding the quantum of maintenance U/s. 24 only income is to be considered but if the husband is not disclosing his real income then it is for the court to find out the truth by drawing adverse inference. Considering the above discussed properties acquired by the Respondent's parents compelled this court to drawn an adverse inference that the respondent is the beneficiary of the said property and his income

is in Lakhs or in crores. It is very easy game for the husbands to say that he is having nothing. Everything is owned by his parents. But as discussed above parents acquires the property only for their next generation and therefore I come to the conclusion that respondent is ultimately beneficiary of the said property and his income is in lakhs or in crores. Accordingly he is having sufficient means to provide maintenance to the Applicant/Petitioner. Considering the inference drawn by me regarding his income following order will meet the ends of Justice. Hence the order.

ORDER

Application is partly allowed and Respondent is directed to pay an amount of Rs. 75,000/- per month to the Applicant/Petitioner from the date of this application till the final decision of the case."

23. In these circumstances, in my view, the said Order dated 10th September, 2024 passed by the Family Court, Pune, does not warrant any interference in our Writ Jurisdiction.

24. Accordingly, the Writ Petition is dismissed. There will be no order as to costs.

[FIRDOSH P. POONTIWALLA, J.]

25. The learned counsel appearing on behalf of the Petitioner seeks stay of the Order dated 10th September 2024 of the Family Court. Since the Writ Petition challenging the said Order is dismissed by this Judgement, in my view, such a stay ought not to be granted, and therefore, the request for stay is rejected.

[FIRDOSH P. POONIWALLA, J.]