

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.17667 OF 2024

Pranali Rakesh Bhujbal

...Petitioner

Versus

Rakesh Nandkumar Bhujbal

...Respondent

Mr. Vikas Shivarkar, for the Petitioner.

Mr. Vaibhav Ramdas Gargade, for the Respondent.

CORAM: MADHAV J. JAMDAR, J.
DATED: 3rd MARCH 2025

P.C.:

1. The challenge in the present Writ Petition is to the Order dated 1st October 2024 passed by the learned Judge, Family Court, No.2, Pune below Exhibit-5 in Petition No. A-579 of 2020. The said Application has been filed by the Petitioner wife seeking interim maintenance. The said Application has been dismissed.

2. It is submitted by Mr. Shivarkar, learned Counsel appearing for the Petitioner that the said Application has been dismissed without even considering various contentions raised in said Application bearing Exhibit-5 in Petition No. A-579 of 2020. To substantiate his contention, he pointed out Paragraph Nos.5, 6 and 7 of the impugned Order.

*“5. Heard ld. Advocate for applicant. The opponent and his advocate are absent. **The application is pending for more than four years.** This is against the mandate of Family Courts Act, 1984, **therefore, to avoid further delay, it is***

proceeded without assistance of opponent and his advocate.

6. The contents of applicant are not denied by the opponent. It means relations is not in dispute. The parties cohabited for four year.s At the outset, it is necessary to note that in the title clause of the main petition, the applicant has mentioned her occupation as "Temporary Service". The applicant has not disclosed details of her admitted job. However, in her disclosure of assets and liabilities affidavit at Exh. 11 she has mentioned the name of her employer as Redient Cash Management Services, Pune and monthly income is of Rs. 15,000/-. The applicant has mentioned the educational qualification of opponent as 12th Standard. She has also mentioned the occupation of opponent as "Temporary Service". The applicant has not given details about the actual income of the opponent. The application and assets and liabilities affidavit of applicant is self contradictory. The applicant has admitted her educational qualification as B.Com. This shows the applicant is more qualified than the opponent. This shows the applicant's contention that the opponent is highly qualified is false.

7. Considering all above peculiar facts, the claim of applicant cannot be believed. Hence, following order:

ORDER

1. Application is dismissed with cost."

(Emphasis added)

3. Mr. Gargade, learned Counsel appearing for the Respondent states that although in the impugned Order it is mentioned that the contents of the Application has not been denied by the Respondent, however, in fact Respondent has filed reply dated 10th February 2023.

4. Perusal of the impugned Order shows that various contentions raised in said Exhibit-5 Application are not considered and even the said reply is also not considered by the learned Judge.

5. In view of the above position both the learned Counsel, on instructions of Petitioner and the Respondent, respectively, state that impugned Order dated 1st October 2024 be quashed and set aside and the said Application bearing Exhibit-5 be remanded back to the learned Family Court.

6. Mr. Shivarkar, learned Counsel appearing for the Petitioner states that as there are certain subsequent events the Petitioner be allowed to file Additional say / Affidavit. Mr. Gargade, learned Counsel appearing for the Respondent states that the Respondent be also allowed to file reply to said Additional say/ Affidavit be filed.

7. Accordingly, in the interest of justice and by consent of the parties following Order is passed :-

(i) Order dated 1st October 2024 passed by the learned Judge, Family Court, No.2, Pune below Exhibit-5 in Petition A-579/2020 is quashed and set aside and said Application bearing Exhibit-5 in said Petition is restored to the Court of learned Judge, Family Court, Pune.

(ii) The Petitioner – wife is at liberty to file Additional say / Affidavit and the Respondent is also at liberty to file reply to such Additional say / Affidavit.

(iii) It is clarified that this Court has not considered merits of said Exhibit-5 Application and all contentions

on merits are expressly kept open.

8. Accordingly, the Writ Petition is disposed of in above terms with no order as to costs.

[MADHAV J. JAMDAR, J.]