

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.17984 OF 2024

Kalpesh Dhirajlal Kothari	...Petitioner
<i>Versus</i>	
Sonam Kalpesh Kothari	...Respondent

Ms. Gaurangi Patil a/w. Mr. Gaurav Changrani (Legal Aid), for the
Petitioner.

CORAM: MADHAV J. JAMDAR, J.
DATED : 7th MARCH 2025

P. C.:

1. Heard Ms. Gaurangi Patil, learned Counsel appearing for the
Petitioner.

2. By the present Writ Petition filed under Article 227 of the
Constitution of India, the challenge is to the legality and validity of
the order dated 30th August 2023 passed by the learned Judge,
Family Court, Nashik, Dist. Nashik below Exhibit-5 in Petition No.A
329 2021, by which the present Petitioner has been directed to pay
interim maintenance of Rs.20,000/- per month to the Respondent.

3. Learned Family Court in the impugned order has *inter alia* observed as follows:

“...the respondent has admitted that he is doing business by showing his occupation as business in the affidavit clause of the reply. Accordingly, it was for the respondent to disclose his exact income, he has not done it. Therefore, adverse inference is required to be drawn against the respondent, inferring that he is having sufficient income and could have easily provided interim maintenance of Rs.20,000/- (Rs. Twenty thousand only) per month to the petitioner, he has not done it. Therefore, he is directed to pay it. In view of aforesaid discussion, I pass the following order:-

ORDER

1. Application (Exh. No.05) is partly allowed.
2. The respondent is directed to pay Rs.20,000/- (Rs. Twenty thousand only) per month to the petitioner, towards interim maintenance, from the date of the application I.e. from 22.06.2021 till disposal of the petition.”

(Emphasis added)

4. It is the contention of the Respondent in the Application filed under Section 24 of the Hindu Marriage Act, 1955 that the Petitioner is having wholesale and retail business and his income is about Rs.1,000,00/- per month. In the detailed say filed to the Application, the Petitioner has not disclosed about his income. In the say, except denial, no particulars are disclosed.

5. In the facts and circumstances, the learned Judge, Family Court, Nashik is justified in drawing the adverse inference.

6. Accordingly, no case is made out of interference in the impugned order passed below Exhibit-5 in Petition No.A 329 of 2021 in writ jurisdiction of this Court under Article 227 of the Constitution of India.

7. The Writ Petition is dismissed, however, with no order as to costs.

[MADHAV J. JAMDAR, J.]

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