

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.18927 OF 2024

Samir Girish Bhatia

...Petitioner

Versus

Jagruti Samir Bhatia

...Respondent

Mr. Vijay B. Dhingreja a/w Mr. Jayraj V. Shinde and Mr. Anshul
Kochar, Advocate i/by VJ Juris for Petitioner.

Ms. S.S. Gokhale, Advocate for the Respondent.

CORAM: MADHAV J. JAMDAR, J.

DATED : 15th JANUARY 2025

P.C.:

1. Heard Mr. Vijay Dhingreja, learned Counsel appearing for the Petitioner and Ms. Gokhale, learned Counsel appearing for the Respondent.

2. The only challenge which requires consideration is direction issued by Judgment and Order dated 25th September 2024 by the learned Judge, Family Court No.2, Mumbai in Petition No. Civil M.A. No.89/2015 that the maintenance of Rs.60,000/- per month is to be paid instead of Rs.40,000/- per month from the date of filing of Civil M.A. No. 89/2015 i.e. from 18th March 2015. The

relevant directions in the impugned Order dated 25th September 2024 reads as under:

“2. Respondent do pay maintenance of Rs.60,000/- per month instead of Rs.40,000/- per month to petitioner from the date of filing of Civil M.A. No.89/2015 i.e. 18.03.2015. This enhanced maintenance amount includes rent.

3. The amount of maintenance paid by respondent be adjusted in calculating the outstanding dues.”

3. In this behalf, it is relevant to note that by the Order dated 17th July 2014, passed in Petition No. E-17 of 2011, the learned Judge, Family Court granted maintenance of Rs.40,000/- per month to the present Respondent. Immediately on 18th March 2015, the said M.A. No.89 of 2015 has been filed seeking enhancement in maintenance.

4. The learned Judge, Family Court has granted maintenance of Rs.40,000/- per month by Order dated 17th July 2014 and the same has been increased to Rs.60,000/- per month by Order dated 25th September 2024. Considering inflation and other facts and circumstances, there is no illegality in passing the said order granting maintenance of Rs.60,000/- per month and the same is fair and reasonable. In view of the same, Mr. Vijay Dhingreja,

learned Counsel appearing for the Petitioner, on instructions of the Petitioner, who is present in the Court today states that he is confining the challenge only with respect to the direction to pay the maintenance from the date of filing of Civil M.A. and not from the date of the Order and he is accepting the order of maintenance granted at the rate of Rs.60,000/- per month.

5. Thus the only issue which is required to be considered in this Writ Petition is whether the enhanced maintenance can be granted from the date of application or from the date of the order or from any other date, in the facts and circumstances of this case.

6. It is admitted position that the Petitioner is maintaining both the daughters. The elder daughter is of 22 years old and the younger daughter is of 20 years old.

7. It is very clear that there are many judgments, which specifies that the maintenance should be granted from the date of filing of the application, but in the facts and circumstances of this case, particularly when admittedly both the daughters are staying with the Petitioner and they are maintained by the Petitioner and particularly when the application for enhancement of maintenance has been filed within a period of eight months, the challenge to

that aspect is required to be considered. *Prima facie*, the learned Judge should have determined when the change in circumstances have taken place necessitating enhancement of the maintenance.

8. Mr. Vijay Dhingreja, learned Counsel appearing for the Petitioner, on instructions of the Petitioner, states that w.e.f. 25th September 2024, the Petitioner is paying maintenance to the Respondent @ Rs.60,000/- per month and that he will continue to pay the maintenance @ Rs.60,000/-. He states that the maintenance amount per month will be paid to the Respondent on or before 10th day of each month. The said statements made on instructions of the Petitioner, who is present in the Court, are accepted as undertakings given to this Court.

9. Accordingly for consideration of above referred limited issue, stand over to **26th February 2025 at 2.30 p.m.** However, it is clarified that except that issue, the impugned Order dated 25th September 2024 is fair and reasonable and stands confirmed and it is recorded that the challenge to the quantum of the maintenance is expressly given up by the Petitioner.

(MADHAV J. JAMDAR, J.)

BHALCHANDRA
GOPAL
DUSANE

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