

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.1369 OF 2025

Laxman Shivram Khot

...Petitioner

Versus

Sangita G. Khot & Ors.

...Respondents

Mr. Vishal V. Rankhambe a/w Ms. Aparna V. Rankhambe a/w Mr. Chaitanya M. Bagul a/w Mr. Afsar Ansari, for the Petitioner.

Ms. Jai Kanade, for the Respondent No.1.

Ms. A. S. Gotad, for the Respondent – State.

CORAM: MADHAV J. JAMDAR, J.
DATED: 27th MARCH 2025

P.C.:

1. Heard Mr. Rankhambhe, learned Counsel appearing for the Petitioner and Ms. Kanade, learned Counsel appearing for the Respondent.

2. By the present Writ Petition filed under Article 227 of the Constitution of India, the challenge is to the Order dated 22nd November 2022 passed by the learned JMFC, Malkapur-Shahuwadi, District Kolhapur below Application bearing Exhibit-12 in PWDV Application No.12 of 2018 as well as to the Order dated 16th September 2023 passed by the learned Assistant District Judge, Kolhapur below PWDV Appeal No.3 of 2023.

3. By the impugned Order dated 22nd November 2022 passed by the learned JMFC maintenance of aggregate amount of Rs.5,000/- per

month has been granted to the Respondent and daughter and Rs.2,000/- per month has been granted towards residence order. The said Order has been confirmed by the learned Appellate Court.

4. It is the contention for Mr. Rankhambhe, learned Counsel appearing for the Petitioner that the main allegation was against Shivram Nana Khot i.e. Petitioner No.2 who has passed away and therefore, the impugned orders are required to be quashed and set aside. He further submitted that the learned JMFC has directed the payment of said amount from the date of filing Application i.e. 19th December 2018. However, the application itself has been filed on 17th January 2020. He therefore, submitted that impugned Order be quashed and set aside.

5. On the other hand Ms. Kanade, learned Counsel appearing for the Respondent No. 1 submitted that in fact the application which has been filed before the Protection Officer is filed on 19th December 2018, which has been forwarded by the Protection Officer to the learned JMFC on 19th December 2018 and thereafter in furtherance of the said Application dated 19th December 2018, an Application bearing Exhibit-12 has been filed on 17th January 2022. She therefore submitted that for the purpose of granting maintenance the appropriate date required to be considered is 19th December 2018. She submitted that in view of the law laid down by the Supreme Court in the case of *Rajnish Vs. Neha* ¹

¹ (2021) 2 SCC 324

the maintenance Application has been rightly allowed from the date of the Application.

6. She further submitted that even if Shivram has passed away in fact the other Petitioners i.e. Petitioner No.1 and Petitioner No.3 are the legal heirs of the Petitioner No.2 and therefore they are entitled to the property rights. She further submits that the Petitioners are having various agricultural lands as well as premises at Mumbai and the Petitioners are getting substantial.

7. Perusal of the record shows that both the Courts have concurrently held that the Respondent and her daughter is entitled for maintenance of Rs.5,000/- per month in aggregate and Rs.2,000/- per month for the provision of residence. The perusal of the record further shows that the Petitioners are having various properties including a premises at Mumbai.

8. As far as the contention that the Application should have been allowed from the date of Application bearing Exhibit-12 i.e. 17th January 2020 and not from 19th December 2018, it is required to be noted that the Application has been filed with the Protection Officer on 19th December 2018 and the same has been sent to the Court of learned JMFC on 19th December 2018 and accordingly, the said case has been numbered as PWDV Application No.12 of 2018. In the said case in furtherance of the main Application, an Application bearing Exhibit-12

has been filed on 17th January 2020. As per the law laid down by the Supreme Court in the case of ***Rajnesh*** (supra) the interim maintenance Application is to be allowed from the date of the filing of the Application.

9. Accordingly, there is no illegality or irregularity in the impugned Orders.

10. Ms. Kanade. states that the arrears are to the tune of Rs.4,80,000/-.

11. The Writ Petition is dismissed with cost of Rs.10,000/-. The cost to be paid by the Petitioner to the Respondent No.1 within a period of four weeks from today.

[MADHAV J. JAMDAR, J.]