

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.5645 OF 2024

Jeevan Baban Gawade

...Petitioner

Versus

Archana Jeevan Gawade

...Respondent

Mr. Ashish Gatagat a/w Mr. Aashay Rabade, Mr. Shreyas Yande (through V. C.) for the Petitioner.

Mr. Pramod J. Pawar, for the Respondent.

CORAM: MADHAV J. JAMDAR, J.

DATED: 24th JULY 2025

P.C.:

1. Heard Mr. Gatagat, learned Counsel appearing for the Petitioner and Mr. Pawar, learned Counsel appearing for the Respondent.

2. The challenge in this Writ Petition is to the order dated 7th September, 2023 passed by the learned Principal Judge, Family Court, Mumbai in Interim Application No.26 of 2022 in Petition No. E-207 of 2021 (order below Exhibit-9). By the impugned order, the said Application has been partly allowed and the Petitioner has been directed to pay Rs.20,000/- per month to the Respondent from the date of the Application i.e. 4th February, 2022 till the disposal of the main Petition.

3. It is the main contention of Mr. Gatagat, learned Counsel appearing for the Petitioner that Respondent has not disclosed in her disclosure affidavit that Respondent is receiving rental income of

approximately Rs.7,000/-. He therefore, states that the impugned order dated 2nd August, 2019 be quashed and set aside and the matter be remanded back to the learned Trial Court for fresh disposal.

4. Mr. Pawar, learned Counsel for the Respondent submits that there are arrears of about Rs.4,30,000/-. He submits that the said rental income was received by the father of the Respondent and after the death of the father, it is being paid to the Respondent. He further submits that in any case said rental income is used for payment of rent of the premises which is being presently occupied by the Respondent and mother of the Respondent, as both of them are staying together.

5. In any case, Mr. Pawar, learned Counsel on instructions, states that the Respondent has no objection if the matter is remanded back to the learned Trial Court. It is his submission that, as far as the arrears are concerned certain directions be issued. He further submits that after remand the learned Principal Judge, Family Court, Mumbai be directed to decide the said application within time bound manner.

6. Accordingly, by consent of parties, following order is passed.

O R D E R

- (i) Impugned order dated 7th September, 2023 passed by the learned Principal Judge, Family Court, Mumbai in Interim Application No.26 of 2022 in

Petition No. E-207 of 2021 (order below Exhibit-9) is quashed and set aside and said Interim Application is restored to the file of learned Principal Judge, Family Court, Mumbai at Bandra.

- (ii) Both Petitioner and Respondent are at liberty to file further affidavit of disclosure. The same be done within a period of 4 weeks from today.
- (iii) Without prejudice to the rights and contentions of both the parties, during the pendency of the Interim Application No.26 of 2022 in Petition No. E-207 of 2021 the Petitioner i.e. husband shall pay to the Respondent-wife Rs.20,000/- per month, the said amount of Rs.20,000/- be paid by the Petitioner to the Respondent-wife on or before 10th day of each month. First such payment shall be made on or before 10th August, 2025.
- (iv) In addition to the said payment of Rs.20,000/- per month the Petitioner also shall pay to the Respondent-wife an amount of Rs.2,00,000/- within a period of 4 weeks from today. It is clarified that said payment is without prejudice to the rights and contentions of both the parties.

(v) Mr. Gatagat, learned Counsel, on instructions states that the Petitioner, without prejudice to the rights and contentions, shall comply with said direction concerning Rs.20,000/- per month and of Rs.2,00,000/-. The said statement made by the learned Counsel appearing for the Petitioner, on instructions of the Petitioner, is accepted as undertaking given to this Court.

7. It is clarified that this Court has not expressed any opinion with respect to the merits of said Interim Application No.26 of 2022 in Petition No. E-207 of 2021 and all contentions of both the parties are expressly kept open.

8. Learned Principal Judge, Family Court, Mumbai is requested to dispose of said Interim Application No.26 of 2022 in Petition No. E-207 of 2021 expeditiously within a period of 4 months from today.

9. Accordingly, the Writ Petition is disposed of, however, with no order as to costs.

[MADHAV J. JAMDAR, J.]