



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Writ Petition No. 3673 of 2024

[Harish s/o Ashok Walke ..vs.. Neha w/o Harish Walke]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mrs. P. M. Chandekar, Advocate for the petitioner
Mr. C. J. Dhruv, Advocate for the respondent

CORAM : ANIL L. PANSARE J.

DATED : 09-01-2025

Heard.

2. The petitioner – husband is aggrieved by order dated 7-10-2023 passed by the Joint Civil Judge Senior Division, Nagpur in HMP No. 434/2022. The wife had filed application under Section 24 of the Hindu Marriage Act for maintenance *pendente lite*. Both the parties filed statements of assets and liabilities in terms of law laid down by Hon'ble Supreme Court in the case of ***Rajnesh Vs. Neha and another [(2021) 2 SCC 324]***. The respondent – wife in the column of expenses of children quoted Rs. 8,000/- towards food, clothing and medical expenses are required.

3. The trial Court noted that both the parties are employed and earning equal salary viz. Rs. 50,000/- approximately per month. The Court further noted that both the parties are well qualified and will have to bear their own expenses. As regards expenses of kid, the trial Court held that Rs. 10,000/- per month should be awarded. The only consideration for awarding said sum is the income of the petitioner. There is nothing in the order

to indicate that the statements of assets and liabilities filed by the parties have been considered by the trial Court. Thus, the purpose of filing such statements has been defeated. The Supreme Court in the aforementioned case has categorically held that Courts below should consider affidavit of assets and liabilities before passing either interim order or final order. Having failed to do so, in my view, the trial Court committed error of law which requires correction.

4. In the circumstances and considering the fact that the respondent – wife has stated in affidavit that expenses of children would be Rs. 8,000/-, the order passed by the trial Court would require modification. The amount of Rs. 10,000/- is accordingly reduced to Rs. 5,000/- per month.

5. Learned counsel for the respondent – wife has submitted that kid has been now admitted to Nursery and additional expenses will be required. He submits that necessary documents were placed before the trial Court and therefore, he supports the findings of trial Court. However, the order impugned does not show that the additional expenses, if any, were either brought to its notice or were considered by it.

6. In the circumstances, the purpose will be served if the respondent is granted liberty to seek enhancement in the maintenance in view of subsequent developments.

7. With the above observations, writ petition is partly allowed. The order dated 7-10-2023 passed by the Joint Civil Judge Senior Division, Nagpur below Exhibit 5

in HMP No. 434/2022 stands modified by reducing the amount from Rs. 10,000/- to Rs. 5000/- per month. Rest of the order stands intact.

8. Writ petition is disposed of in aforesaid terms with no order as to costs.

(Anil L. Pansare, J.)

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