



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

WRIT PETITION No.2412 OF 2024

(Shri Nilesh s/o. Bapurao Charde Vs. Smt. Aarti w/o. Nilesh Charde)

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

Court's or Judge's orders.

Mr. A.S. Tiwari, Advocate for petitioner.

CORAM : R.M. JOSHI, J.
DATE : 7th JULY, 2025.

1. None present for the respondent though served. Absence of the respondent indicates that respondent has no inclination to oppose the petition.

2. Short point involved in this petition is as to whether an order could have been passed by the trial Court under Section 24 of the Hindu Marriage Act, 1955 (in short, 'the Act') granting maintenance to the child.

3. Learned counsel for the petitioner has drawn attention of the Court to the provisions of Section 24 of the Hindu Marriage Act which according to him with entitles grant of maintenance to wife or husband only. It is his contention that the maintenance for the child is not covered by the said provision and hence order impugned cannot sustain.

4. At this stage it would be relevant to take note of Section 24 of the Act, which reads thus :

“24. Maintenance pendente lite and expenses of proceedings.-

Where in any proceeding under this Act it appears to the Court that

either the wife or the husband, as the case may be, has no independent income sufficient for her or his support and the necessary expenses of the proceeding, it may, on the application of the wife or the husband, order the respondent to pay to the petitioner the expenses of the proceeding, and monthly during the proceeding such sum as, having regard to the petitioner's own income and the income of the respondent, it may seem to the Court to be reasonable:-

[Provided that the application for the payment of the expenses of the proceeding and such monthly sum during the proceeding, shall, as far as possible, be disposed of within sixty days from the date of service of notice on the wife or the husband, as the case may be.]”

5. Plain reading of this provisions clearly indicates that in a proceeding under Section 24 of the Act when it appears to the Court that the wife or husband as the case may be has no independent income sufficient for her/his support and necessary expenses of the proceeding are entitled on application by either of them, Court may order payment of expenses of the proceeding and the maintenance during the proceeding. The provision does not postulate he maintenance of children having regard to its scope. The interpretation of this provision cannot be permitted to be done out of the context of the scheme of the provision.

6. It is not the case that for the maintenance of the child there is no other provision available in law. The proceeding under Section 125 of the Code of Criminal

Procedure or Hindu Adoption and Maintenance Act etc. is very well available which is efficacious remedy. Thus, the interpretation of section excluding child from purview of Section would not cause any prejudice to the right of child to be maintained.

7. In the above position of law, this Court finds no reason to reject the contention of the counsel for the petitioner that the order impugned since does not contemplate maintenance of any one else from the wife or husband, as case may be.

8. The order impugned, therefore, cannot sustain being passed without jurisdiction and hereby set aside.

9. It is clarified that setting aside of order impugned, would not become impediment for the child to get maintenance as per law.

10. Petition stands allowed in above terms.

(R.M. JOSHI, J.)