



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

WRIT PETITION NO. 5525 OF 2024

1. Mrs. Anjali W/o Gopichand
Khobragade, age- 45 years, Occ-
Private Job, Education- 10th fail + ANM
(Nursing), R/o, C/o Mrs. Sisanbai
Chandel, ward no. 14, Vasant Nagar,
Rameshwari Road, Nagpur- City, Dist.
Nagpur.
2. Manisha D/o Gopichand
Khobragade, Age- 23 yrs. Education-
B.C.S., OCC- Nil (Presently taking
Education), Add- Residing with Mother)

....PETITIONERS

....VERSUS....

Mr. Gopichand D. Khobragade
Office at- C/o Office Area General
Manager, Office Bhalar Town, Wani
North Area, Tah. Wani, Dist. Yaotmal-
445304

(Amendment carried out as per order dated 20/12/2024)

....RESPONDENT

Shri D.P. Bhongade, Advocate for petitioners
Shri A.J. Thakkar, Advocate for respondent

CORAM : SMT. M.S. JAWALKAR, J.
DATED : 09/04/2025

ORAL JUDGMENT

. **Rule.** Rule made returnable forthwith.

2. Heard learned Counsel for the petitioners, learned Counsel for the respondent.

3. The present petition is filed being aggrieved by the order dated 09/08/2024, passed by the Family Court No. 2, Nagpur. Whereby, the application for interim maintenance is partly allowed. The claim of the petitioner/wife for grant of interim maintenance came to be dismissed and respondent was directed to pay monthly maintenance of Rs.10,000/- to the petitioner No. 2 / daughter from the date of order.

4. Learned Counsel for the petitioners submits that in view of the judgment of Hon'ble Apex Court in *Rajneh Vs. Neha*, AIR 2021 SCC 569, maintenance in all cases including interim maintenance will be awarded from the date of filing of the application. As such, the learned Family Court No. 2 erred in granting interim maintenance to respondent No.2 from the date of

passing of the order. So far as maintenance to wife/petitioner No.1 is concerned, it appears from the record that the wife is residing separately since month of March or April, 2001. She also admitted that she is second wife of the respondent. However, her contention is that the respondent concealed his first marriage and cheated her.

5. The learned Family Court Judge-2, Nagpur, mentioned the judgment of *Badshah Godase Vs. Urmila Badshah Godase, (2014) 1 SCC 188*, of the Hon'ble Apex Court, wherein, similar facts was involved and the second wife was held entitled for grant of maintenance. However, learned Family Court relied on the judgment of *Andhra Pradesh, High Court in Abbayolla M. Subba Reddy Vs. Padmamma, AIR 1999 AP 19*, and not discussed the judgment cited of the Hon'ble Apex Court in *Badshah Godase (supra)*. Though the judgment is in respect of interpretation of word 'wife' appearing in Section 125 of the Cr.P.C. the Court also laid down that purposive construction/interpretation needs to be given to the provisions of Section 125 of the Cr.P.C. The purpose is to achieve social justice which is the constitutional vision enshrined in the Preamble of the Constitution of India. It specifically highlights achieving their social justice, therefore, it

become the bounden duty of the Court to advance the cause of the social justice. While giving interpretation to a particular provision, the Court is suppose to bridge the gap between the law and the society.

6. In my considered opinion, so far as question of interim maintenance to the respondent No.1 is concerned, is not properly appreciated by the learned Family Court No.2, Nagpur, and order to that extent is liable to be set aside. Hence, I proceed to pass following order :-

ORDER

1. Writ Petition is partly allowed.
2. Order passed by learned Family Court No.2, Nagpur, to the extent to refuse maintenance to applicant No.1, is hereby quashed and set aside.
3. The learned Family Court No. 2, Nagpur, is hereby directed to decide the application for interim maintenance of applicant No.1 afresh without getting influenced by this order, however, after considering the law laid down by the Hon'ble Apex Court in

Badshah (supra). So far as order in respect of petitioner No.2 is concerned, it is modified by deleting the words “from the date of order” in Clause – (3), substituting the said words “from the date of filing of application”.

4. The learned Family Court No.2, Nagpur, is hereby directed to reconsider the application of petitioner No.1, by taking into account the income of both the parties and other facts.

The petition stands disposed of with these directions.

(SMT.M.S. JAWALKAR, J.)

Jayashree..