



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

WRIT PETITION NO.871 OF 2025

Mr. Amol Janardhan Gawai Vs. Mrs. Asha Amol Gawai

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mrs. K.Y. Mandpe, Advocate for the Petitioner.
 Mrs. P. Lakhani, Advocate for the Respondent.

CORAM: M.M. NERLIKAR, J.
DATED : 04st DECEMBER, 2025

1. The petitioner is challenging the order dated 30.03.2019 passed by the Judicial Magistrate First Class, Buldhana in Domestic Violence proceeding No.71/2015 wherein, the respondent and their daughter have been granted Rs.2,000/- and Rs.1,000/- per month respectively. He further challenged the order dated 21.02.2025 passed by the Family Court, Buldhana in proceedings under Section 144 of Bhartiya Nagrik Suraksha Sanhita, 2023 (for short "BNSS") bearing Petition No.E-41/2024 and prayed that the order passed in the domestic violence proceeding be merged with the order passed in Petition No.E-41/2024.

2. I have heard learned counsel for the petitioner, he submits that the petitioner is a labourer. The Judicial Magistrate First Class, Buldhana has granted Rs.2,000/- and Rs.1,000/- per month to respondent and their daughter respectively. He further submits that in proceedings under Section 144 of BNSS, again the

Family Court has granted Rs.4,000/- and Rs.2,000/- per month. The Court ought to have considered the earlier maintenance amount granted in the domestic violence proceedings and ought to have adjusted the same in the proceedings under Section 144 of BNSS. However, the Family Court has granted Rs.4,000/- and Rs.2,000/- in addition to Rs.2,000/- and Rs.1,000/- to the respondent and their daughter. He further submits that considering the nature of work of the petitioner, it is very difficult to pay the said amount. Even considering the source of income of the petitioner, there was nothing before the Family Court to award Rs.6,000/- in addition and accordingly, prayed to allow the present petition.

3. On the other hand, learned counsel appearing for the respondent submits that the amount in the Domestic Violence proceeding was granted in the year 2019, which is a meager amount of Rs.2,000/- and Rs.1,000/-. In-fact the Court ought to have considered the present position of the respondent, it is very difficult to live and sustain on this meager amount.

4. She further submits that even if the petitioner is doing labour work, as was contended, it is his duty to maintain his wife and daughter. She further submits that the Court has rightly considered the salary of Rs.30,000/- per month of the petitioner. She further submits that the petitioner is working in the Pariyani Shop. In view of the ratio laid down by the Hon'ble Supreme Court in the case of Rajnesh Vs. Neha and Another reported in (2021) 2 SCC 324, both the Courts have rightly granted the amount of maintenance. She

further submits that there is no merit in the petition and prayed for dismissal of the same.

5. I have heard learned counsel for the respondent and I have also gone through the record. Admittedly, the domestic violence proceedings were initiated in the year 2015 and final order came to be passed on 30.03.2019 wherein, Rs.2,000/- and Rs.1,000/- was granted to the respondent and their daughter. Thereafter, the proceedings under Section 144 of the BNSS was initiated by the wife and daughter of the petitioner, claiming maintenance.

6. After scanning the entire evidence, the Court has passed an order granting the maintenance of Rs.4,000/- and Rs.2,000/- to the wife and daughter respectively. It appears from the record that the respondent is legally wedded wife of the petitioner. It was also brought on record that she is unable to maintain herself. She is residing with her minor daughter and even maintenance amount is required for the daughter.

7. Upon perusal of the record, it appears that the respondent has proved that the husband has deserted her and their daughter without any reasonable cause. Not only that he also failed to provide any monetary relief to her and thereby, neglected towards her maintenance. As per the contention of the petitioner, he is working in Pariyani Shop and earning only Rs.9,000/-. It appears that both the parties have not been able to produce the source of income of the petitioner.

8. However, it appears that the Court has taken a notional income as Rs.25,000/- (Rupees Twenty Five Thousand Only). It further appears that the minor daughter of the respondent and petitioner namely Swara, is pursuing her education in 6th standard in Cambridge School, Buldhana.

9. After scanning the entire evidence, the Court has come to the conclusion that it is the duty of the husband to maintain his wife and daughter. Accordingly, in addition to the maintenance amount granted in the domestic violence proceeding, the Court has granted Rs.4,000/- and Rs.2,000/-. Admittedly, the domestic violence proceedings were initiated in the year 2019. However, after a long gap of six years, in the present economy it cannot be said that the Court has granted exorbitant amount in the proceeding under Section 144 of BNSS.

10. In this view of the matter, I am not inclined to grant any relief. Hence, the following Order :-

ORDER

- (i) The Writ Petition No.871/2025 is hereby **dismissed**.

(M.M. NERLIKAR, J.)

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