

Arjun

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.15882 OF 2025

ARJUN
VITTHAL
KUDHEKAR

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Abhijit Som

...Petitioner

Versus

Dr. Becky Abraham

...Respondent

Mr. Aseem Naphade a/w Aadil Parsurampururia & Aalam Parsurampururia
i/b Prashant Parsurampururia, for the Petitioner.

Mr. Akhilesh Jaiswal, for the Respondent.

CORAM: MADHAV J. JAMDAR, J.

DATED: 25 FEBRUARY 2026

P.C.:

1. Heard Mr. Naphade, learned Counsel appearing for the Petitioner and Mr. Jaiswal, learned Counsel appearing for the Respondent.
2. By the present Writ Petition filed under Article 227 of the Constitution of India, the Petitioner is challenging the legality and validity of the Order dated 14th October 2025 passed by the learned District Judge-4, Panvel-Raigad below Exhibit-16 in Special Marriage Petition No.34 of 2024 (“**impugned Order**”).
3. By the impugned Order, the Petitioner has been directed to pay interim maintenance of Rs.1,50,000/- per month to the Respondent i.e. the wife and two children, collectively from the date of filing of the application until the final decision of the Petition.
4. It is the submission of Mr. Naphade, learned Counsel for the

Petitioner, that the Respondent has a monthly income of Rs.1.28 Lakhs, comprising Rs.48,000/- per month as rent from the Bangalore flat owned by the Petitioner, Rs.50,000/- per month towards interest income and Rs.30,000/- per month from self-employment and that she has a huge mutual fund investments amounting to Rs.1.98 Crores.

5. Mr. Naphade, learned Counsel, submitted that the Petitioner is working as Assistant Vice President (Sales & Marketing) at Grasim Industries Limited and that his monthly income is Rs.3.40 Lakhs.

6. Mr. Naphade, learned Counsel, submitted that the Respondent is residing in a flat at Kharghar, Navi Mumbai, which is owned by the Petitioner. It is further submitted that the Petitioner is residing in rented premises. The Petitioner is bearing the monthly expenses of the children. In these circumstances, it is submitted that the sum of Rs.1,50,000/- awarded as maintenance is exorbitant.

7. Mr. Naphade, learned Counsel, relied on the Judgment of a learned Single Judge of this Court in ***Shama Rahul Moholkar v. Rahul Deorao Moholkar***¹, as well as the decision of a learned Single Judge of this Court [Aurangabad Bench] in Criminal Revision Application No.31 of 2024. He also relied on the Judgment of a learned Single Judge of this Court in ***Poonam Jaidev Shroff v. Jaidev Rajnikant Shroff***² and submitted that, if the wife has an independent income, she is not

1 2018 (2) Mh.L.J. 490

2 2020 SCC OnLine Bom 5450

entitled to alimony *pendente lite* in view of Section 36 of the *Special Marriage Act, 1954*, as interpreted by the learned Single Judge in the said case of ***Poonam Jaidev Shroff*** (supra).

8. On the other hand, Mr. Jaiswal, learned Counsel for the Respondent, submitted that although it is contended that the Petitioner earns only a salary of Rs.3.40 Lakhs per month, the same is totally incorrect. Learned Counsel submitted that perusal of the Petitioner's bank account shows that the total amount received by him annually exceeds Rs.1.52 Crores. He further submitted that the rent being received by the Respondent of the flat is not solely owned by the Petitioner, but that the Respondent-wife is a Co-Owner of the said flat. He, therefore, submitted that no interference in the impugned Order is warranted.

9. Perusal of the record shows that the learned Trial Court has observed that the sons are young and pursuing their education. The elder son is taking college education and the younger son is studying in school. The Respondent - wife and children are residing in a flat at Kharghar, Navi Mumbai, which is jointly owned by the Petitioner and the Respondent. The learned Trial Court has taken into consideration the fact that the Petitioner's salary is Rs.3,30,000/-. The learned Trial Court has also taken into consideration that the Petitioner was paying Rs.1,00,000/- per month towards maintenance until June 2024. Apart

from the same, the Petitioner was also bearing the school fees of the children. Therefore, the learned Trial Court by taking into consideration overall circumstances granted maintenance of Rs.1,50,000/- per month.

10. Thus, in the facts and circumstances, it cannot be said that the impugned Order is perverse Order as the contentions raised and relevant aspects have been taken into consideration.

11. Perusal of the record shows that an amount of Rs.1.52 Crores has been received in the Petitioner's account in one year. It is the contention of Mr. Naphade, learned Counsel for the Petitioner that the said amount comprises salary as well as other income and investments.

12. In any case, it is an admitted position that, till June 2024, the Petitioner was paying Rs.1,00,000/- per month towards maintenance to the wife and children and was also bearing the school fees of the children. Thus, in the facts and circumstances, the amount of Rs.1,50,000/- which was granted by the learned Trial Court is not exorbitant.

13. The contention of Mr. Naphade, learned Counsel for the Petitioner, on the basis of Section 36 of the *Special Marriage Act, 1954*, is without any basis. Section 36 contemplates that the wife would not be entitled to alimony if she has sufficient independent income. Thus, what is important is the sufficiency of the wife's income.

14. It is an admitted position that, till June 2024, the Petitioner was

paying Rs.1,00,000/- per month towards maintenance of the wife and children and was also bearing the school fees and college fees of the children inspite of wife's income. The maintenance granted is aggregate amount of Rs.1,50,000/- per month for wife and children. The Petitioner was almost paying the same amount to the wife for maintenance of herself and children. Thus, it is clear that even on the touchstone of the parameters of Section 36 that wife would not be entitled to alimony if she has sufficient independent income, no interference is warranted in the impugned Order.

15. It is the contention of Mr. Naphade, learned Counsel, on the basis of Judgments of a learned Single Judge of this Court, that if the wife is employed, then she is not entitled to any maintenance.

16. Paragraph No.84 of the decision of ***Rajnesh v. Neha***³, clearly records various factors to be taken into consideration for determining maintenance. The said Paragraph No.84 reads as under:

“84. The Delhi High Court in Bharat Hegde v. Saroj Hegde [Bharat Hegde v. Saroj Hegde, 2007 SCC OnLine Del 622 : (2007) 140 DLT 16] laid down the following factors to be considered for determining maintenance: (SCC OnLine Del para 8)

“1. Status of the parties.

2. Reasonable wants of the claimant.

3. The independent income and property of the claimant.

³ (2021) 2 SCC 324

4. The number of persons, the non-applicant has to maintain.

5. The amount should aid the applicant to live in a similar lifestyle as he/she enjoyed in the matrimonial home.

6. Non-applicant's liabilities, if any.

7. Provisions for food, clothing, shelter, education, medical attendance and treatment, etc. of the applicant.

8. Payment capacity of the non-applicant.

9. Some guesswork is not ruled out while estimating the income of the non-applicant when all the sources or correct sources are not disclosed.

10. The non-applicant to defray the cost of litigation.

11. The amount awarded under Section 125 CrPC is adjustable against the amount awarded under Section 24 of the Act.””

(Emphasis added)

17. Thus, the Court has to take into consideration the status of the parties, reasonable wants of the claimant, the independent income and property of the claimant, the number of persons the non-applicant has to maintain, the amount should aid the applicant to live in a similar lifestyle as he/she enjoyed in the matrimonial home, non-applicant's liabilities, if any and certain other factors.

18. It has been specifically held in Paragraph No.90 of **Rajnish** (supra) that even if the wife is earning, it cannot operate as a bar from being awarded maintenance by the husband.

19. It is also required to be noted that the Respondent has sought

Rs.3,00,000/- maintenance, however, the learned Trial Court has granted only Rs.1,50,000/-. Thus, it is very clear that the learned Trial Court has taken into consideration the relevant factors and granted reasonable maintenance in judicious manner. Therefore, interference in the impugned Order is not warranted.

20. Thus, in the facts and circumstances, no interference in the impugned Order is warranted.

21. Accordingly, the Writ Petition is dismissed, however, with no order as to costs.

[MADHAV J. JAMDAR, J.]