



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 16275 OF 2023

S [REDACTED] [REDACTED] P [REDACTED] S [REDACTED]

...Petitioner.

Versus

P [REDACTED] S [REDACTED] S [REDACTED]

...Respondent

Mr. Shashipal Shankar for the Petitioner.

Mr. S. S. Dube a/w Mr. Nagendra Dube for the Respondent.

CORAM: MANJUSHA DESHPANDE, J.

DATED : 18th JUNE 2025

J U D G M E N T

1. Rule. Rule made returnable forthwith, the Writ Petition is taken up for final disposal with consent of the parties.

2. The Petitioner- husband challenges the Order passed on Interim Application No.164 of 2021 in Petition No. A- 1744 of 2019, pending before the Family Court at Bandra, Mumbai. By the impugned Order dated 24th August 2023, below Exhibit- 12, the Judge, Family Court has

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passed an order granting maintenance of Rs.15,000/- per month to the Respondent- wife till disposal of the Petition.

3. The Petitioner and the Respondent were married on 28th November 2012. According to the Petitioner, the Respondent-wife left the matrimonial home and started residing with her parents from May 2015. Due to the tantrums and ill-treatment by the Respondent, their relations were strained. Despite the Petitioner buying a new flat for the Respondent's comfort and according to her wish, her attitude did not change, and she insisted on conditions that were impossible for him to fulfill. On 7th June 2019, the Petitioner filed a petition for divorce under Section 13(1)(i-a) and (i-b) of the Hindu Marriage Act in the Family Court at Bandra, Mumbai. The Respondent-wife filed an interim application for maintenance on 29th September 2021. The application for interim maintenance was decided by the Judge of the Family Court vide order dated 24th August 2023, granting maintenance to the Respondent-wife at the rate of Rs.15,000/- per month from 01st October 2022 till the disposal of the petition.

4. The Petitioner-husband is challenging the said order on the ground that the Respondent-wife is already employed and is earning an amount of Rs.21,820/- per month. She is earning an additional income of Rs.2,00,000/- per annum through conducting tuition classes, which is duly reflected in her Income Tax Returns. Apart from that, she has an

additional income through interest on her Fixed Deposits. According to the Petitioner, the monthly income of the Respondent-wife is approximately Rs.40,000/- per month. In the affidavit of assets and liabilities filed by the Petitioner he has disclosed that his income by way of gross salary was Rs.65,774/-, and salary in hand was Rs.57,935/-. His monthly expenses comes to Rs.54,000/- per month, since he is residing with his old parents who need to be looked after and maintained by him.

5. The learned counsel for the Petitioner has relied on the affidavit of assets and liabilities filed by him to substantiate his argument that the he is unable to pay Rs.15,000/- per month to the Respondent. According to him, apart from other expenses amounting to Rs.54,000/-, he is also required to incur additional expenses towards his parents, such as their medicines, mobile bills etc. It is admitted that there are no issues from the wedlock between the parties. The learned counsel contends that the Respondent, in her affidavit disclosing her assets and liabilities, has stated that her gross salary is Rs.21,820/- and net salary is Rs.19,820/-. She is employed as an Assistant Teacher in the Holy Cross Convent High School, Thane. Furthermore, her Income Tax Returns for the years 2010-11, 2011-12, and 2017-18 disclose total incomes of Rs.1,14,785/-, Rs. 1,15,228/- and Rs.1,90,890/- respectively,

which is enough for her monthly expenses since she resides with her parents.

6. Per contra, the learned counsel for the Respondent submits that the Petitioner has suppressed material facts from this Court with an object to mislead this Court. It is her contention that, the Petitioner has filed two lists of documents before the Family Court. The first list of documents is dated 04th July 2023 in which the net salary of the Petitioner is shown to be Rs.1,51,284/- as per his pay slip for the month of April 2022 and Rs.1,17,338/- as per the pay slip for the month of September 2022. Learned counsel contends that the Petitioner has deliberately suppressed his details regarding his employment, including salary particulars, and other benefits such as privileges, incentives and increments received from the company where he is employed. He is employed in a reputed company on the post of Senior Manager/Marketing Executive. The Petitioner has potential financial resources, inclusive of a substantial income and savings. Despite possessing the financial capacity he is avoiding his obligation in order to deprive the Respondent from her legal dues for which she is entitled as per the provisions of law. The present Writ Petition is also filed only with an intention to harass the Respondent – wife. The Petitioner is presenting distorted facts before this Court in order to gain sympathy of this Court and thereby get the order impugned modified.

7. It is the contention of the Respondent-wife that she resides with her parents, who in turn reside with her brother's family. In her meager income, it is impossible for her to carve out expenses towards rent if she decides to reside separately. She has not suppressed any facts from the Court and has disclosed her true and correct income. Admittedly, net income she receives in hand is Rs.19,820/-, which is insufficient for her needs. Most of her salary is exhausted in transportation and daily food etc., hence she is in dire need of maintenance.

8. The Respondent has tendered the Petitioner's salary slips for January 2024, February 2024, and March 2024, disclosing incomes of Rs.66,713/-, Rs.68,962/-, and Rs.1,41,532/- respectively. It is further submitted in the affidavit that, despite the Petitioner's claim that his parents are dependent on him, his father's pension of Rs.28,000/- from a Municipal Corporation school indicates that they are not at all financially dependent on the Petitioner. Considering the posh locality where the Petitioner resides, it cannot be held that he is unable to bear the burden of maintenance of Rs.15,000/- per month. According to her, most of her income is spent on her transportation and daily needs. Considering the status of the Petitioner and his standard of living, the Respondent is entitled to the maintenance amount granted by the Family Court and, therefore, the impugned order does not deserve any interference.

9. After hearing the respective parties and perusing the impugned order, it is undisputed that both parties are residing separately and have filed their respective affidavits of assets and liabilities in the Interim Application before the Family Court at Bandra. The Petitioner has stated in the affidavit that he is working as a marketing executive in Reliance Retail Limited and drawing a salary of Rs. 1,50,000/- per month. As per the address disclosed by him he is residing in a well furnished flat in a posh locality that is Casabella, Palava City, Lodha, Dombivali (East), Kalyan. The Petitioner is residing with his parents and his father is getting pension of Rs.28,000/- per month. He disclosed his gross salary to be Rs.65,774/- and net salary to be Rs.57,935/-. According to him, his monthly expenses are to the tune of Rs.54,000/-. It is therefore his contention that, considering the net salary of Rs.57,935/- which he gets in his hands, most of the salary is spent on the monthly expenses which come to Rs.54,000/-, therefore there is nothing left from his salary which he can spare to satisfy the demand of the Respondent-wife. He is not in a position to make payment of Rs.15,000/- p.m. towards maintenance of respondent as directed by the Judge, Family Court.

10. The claim of the Petitioner has been falsified by the salary slips annexed to the reply affidavit filed by the Respondent herein for the months of April 2022 and September 2022, which discloses his net pay

as Rs.1,51,284/- and Rs.1,17,338/- respectively. It also needs consideration that, though he claims that his parents are dependent on him, his own affidavit discloses that his father draws a pension of Rs.28,000/- per month. Therefore, his parents are not financially dependent on him and in fact they must be contributing to the monthly maintenance of the family.

11. I find substance in the submission of the learned counsel for the Respondent that the Petitioner has not disclosed his true income in the affidavit of assets and liabilities. The salary slips placed on record disclose his income above Rs.1,00,000/-. The Respondent-wife has disclosed her income to be Rs.18,000/- per month from her salary as an Assistant Teacher working in a Convent School. Though it is claimed by the Petitioner that the Respondent-wife has an additional income from the interest of the Fixed Deposits, the interest is negligible. Even the income from tuition classes cannot be said to be a permanent source of income.

12. There is a huge disparity in the income of the Petitioner and the Respondent, which cannot be compared. The Respondent-wife is certainly entitled to be maintained with the same standard of living as she was accustomed to before their separation. While determining the quantum of maintenance, the considerations that are required to be taken into consideration are the income of the respective parties; their

age; their responsibilities; their reasonable needs; necessities and income derived from other sources, if any.

13. A useful reference can be made to the recent decision of the Hon'ble Supreme Court in ***Pravin Kumar Jain V/s. Anju Jain'***. The Hon'ble Supreme Court in this judgment has once again reiterated the guidelines for fixing the amount of maintenance. Though it is observed that there cannot be a strict guidelines or fixed formula, but referring to the earlier judgments, the Hon'ble Supreme Court has provided the factors to be looked into while granting maintenance, which reads thus:

“38.1. Status of the parties, social and financial.

38.2. Reasonable needs of the wife and the dependant children.

38.3. Parties' individual qualifications and employment statuses.

38.4. Independent income or assets owned by the applicant.

38.5. Standard of life enjoyed by the wife in the matrimonial home.

38.6. Any employment sacrifices made for responsibilities.

38.7. Reasonable litigation costs for a non-working wife.

38.8. Financial capacity of the husband, his income, maintenance obligations, and liabilities.”

The factors have been laid down on the basis of the judgment of the Hon'ble Supreme Court in ***Rajnesh V/s. Neha and Anr.***² as well as ***Kiran Jyot Maini V/s. Anish Pramod Patel.***³ Applying the above factors to the fact of the present case, the wife needs to be granted maintenance from the income of the husband since her own income is insufficient for her maintenance.

14. In the present case though the wife is earning, the said income is not sufficient for her own maintenance since she has to travel daily a long distance for her job. She is staying with her parents which she cannot stay indefinitely. Because of her meager earning, she is constrained to stay in the house of her brother alongwith her parents causing inconvenience and hardship to all of them. In such a income she is not in a position to live a decent life. As against, it if compared against the Petitioner's income, his income is far more than the Respondent-wife's, with no financial responsibilities on him. Even assuming the certain expenses must be necessary for the maintenance of himself and the family members whom he is obliged to maintain, the amount that remains is sufficient enough to enable him to support the Respondent-wife as per the order passed by the Judge, Family Court at Bandra. Merely because the wife is earning, she cannot be deprived

² (2021) 2 SCC 324

³ 2024 SCC OnLine SC 1724

the support from her husband with the same standard of living to which she is accustomed to in her matrimonial home.

15. I do not find the maintenance awarded by the Family Court is unreasonable or extreme. Hence, the impugned order passed by the Family Court does not warrant interference. In view of the aforesaid observations, the Writ Petition is hereby dismissed. Rule is discharged.

[MANJUSHA DESHPANDE, J.]