



Arun

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 9 OF 2018
IN
PARSI SUIT NO. 8 OF 2017

Nahida R Cooper ...Plaintiff
Versus
Rishad D Cooper ...Defendant

Ms Taubon Irani, *for the Applicant/Plaintiff.*
Mr Sanjay Bhojwani, *for the Respondent/Defendant.*

CORAM: G.S. PATEL, J
DATED: 27th September 2018

PC:-

1. On 16th August 2018, I made an order in regard to payment by the Defendant-father of maintenance, health and educational expenses for the parties' minor son Marc. That order was broadly in two parts. The first required the Defendant to make payment directly to Marc's school in Pune, the Bishop's School, and bear the expenses of all education-related expenses such as tuitions, coaching classes etc. That portion of the order will continue. The other portion of the order was in regard to the general expenses for Marc and these formed part of paragraphs 8 to 12 of that order. In paragraph 12, I asked the Plaintiff-mother through her Advocates to

prepare a statement of accounts for submission to the Advocate for the Defendant so that payment could be made. It turns out that this has led to more disputes, not less. This is obviously not a system that is going to work. It is better in my view to provide for a single lump-sum amount to cover the additional expenses i.e. other than the expenses related to the school and Marc's education and medical expenses as also the curricular activities.

2. Mr Bhojwani for the Defendant has submitted a statement which estimates Marc's expenses at Rs.22,000/- per month. In this, he has included items for school related expenses of Rs.4000/- and Rs.8500/- on extra-curricular courses, tuitions, extra classes, etc. Then there is an amount of Rs.1000/- for miscellaneous minor medical/dental expenses. The side by side comparison with the actual expenses claimed by the Plaintiff are also set out in this sheet.

3. Ms Irani for the Plaintiff says that the educational-related expenses work out to Rs.16,450/- per month but her statement in Part-A covers miscellaneous expenses as well, such as visits to a therapist that Mr Bhojwani is instructed to say is completely unnecessary, and so on.

4. Part-B of Ms Irani's statement however is on a different footing. Here, there is a monthly breakdown of expenses claimed towards electricity, internet connection, cable TV, phone, gas and paper bills, servants, electrician, groceries and various outings.

5. Then there is a third list averaging the monthly expenses and claiming 50% on behalf of Marc, an amount of Rs.55,300/-.

6. My immediate concern as a matter of law is that the Plaintiff has sought no maintenance for herself yet. I do not think that it is either possible or even advisable to conflate the claims made on behalf of maintenance for the minor with maintenance for the Plaintiff. Different considerations will undoubtedly arise while assessing these two claims. They stand on different footings. The Plaintiff is not employed.

7. On account of a previous order dated 22nd September 2017 she is required to live in Pune where Marc is enrolled at the Bishop's School. That order has attained finality in appellate proceedings. It is not possible to revisit that at this stage. The Plaintiff says that as a result her day-to-day expenses in Pune are higher, including on Marc. This may be true but it only means that an appropriate adjustment or allowance has to be made in regard to the contribution to be made by the Defendant-father towards Marc's expenses or those that can be reasonably attributed to his needs. The Plaintiff is at liberty to make an application in regard to her claim for maintenance for herself and to move this after sufficient notice to Mr Bhojwani for the Defendant.

8. In the meantime, there is a question of the amount that the Defendant is required to pay to the Plaintiff as a lump-sum per month from October onwards to meet Marc's day-to-day expenses. I am making it clear that I am not accepting Mr Bhojwani's

estimates. They are too low. The Defendant is required to pay all school-related expenses and these cannot form part of the monthly lump-sum that I proposed to order. In addition, there will be direct payment against receipts or invoices of all tuitions, coaching classes, curricular activities in which Marc is engaged, also outside the monthly lump-sum payments. All medical bills for Marc are to be paid against actuals and this includes all emergency medical expenses, and these too stand outside the monthly lump-sum amount I propose to order. I will, however, since this is disputed, exclude the costs of the therapist but will not disallow that claim leaving it open for decision at a later stage.

9. This means that from Rs.22,000/- estimated by Mr Bhojwani as the monthly lump-sum, I will disallow the inclusion of the amounts of Rs.8,500/- towards extra-curricular and Rs.4,000/- towards school-related expenses. Those are the amounts that the Defendant is required to pay in any case. Mr Bhojwani estimates the Bishop's School-related fees to be about of Rs.7,000/- per month. Those are to be paid and not included in the monthly lump-sum. As I mentioned, all expenses on extra-curricular activities, tuitions and coaching classes will also be made by the Defendant as will all medical expenses excluding the costs of the therapist.

10. Over and above these expenses and costs, the Defendant will be required to pay directly to the Plaintiff an amount quantified at Rs.25,000/- per month today. This order will continue for the next quarter and it will be reviewed in January 2019. The Plaintiff will maintain separate statements of account for review by the Court on re-opening. Thus, this amount of Rs.25,000/- per month (a) is for

Marc; (b) is in addition to all expenses for the school, education, curricular and extra-curricular classes, coaching, tuitions, additional sports activities; and (c) all medical expenses except the therapist.

11. Mr Bhojwani had at my instance obtained from his client a cheque for Rs.65,198/- in favour of the Plaintiff. This covers a claim for previous expenses. At that time, there was no formal order of this nature governing the arrangement between parties and for Marc. I do not think it is a reasonable expenditure of the Court's time to microscopically examine every one of these claims and their refutations. I will allow the Plaintiff to encash this cheque. Ms Irani is instructed to accept the cheque without prejudice to her client's rights and contentions.

12. List the matter on 7th January 2019.

(G. S. PATEL, J)