



MP-7341-18

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

WRIT PETITION NO.7341 OF 2018

Supriya Shyam Kohale
aged 32 years, Occ. Household
R/o c/o Balabhau W. Khonde
c/o Chandrakant Kukde, Janata Chowk,
near Bhagat Singh Statue, Ram Nagar,
Wardha, Dist. Wardha.

... Petitioner.

-VS-

Shyam Rameshrao Kohale
aged 35 years, Occ. Service
R/o Shrihari Colony, Sai Nagar,
Arvi, Tal. Arvi, District Wardha

... Respondent

Ms Vidya Umale, Advocate for petitioner.
Shri R. P. Waghmare, Advocate for respondent.

CORAM : A. S. CHANDURKAR, J.
DATE : July 24, 2019.

Oral Judgment :

Rule. Heard finally with consent of counsel for the parties.

The petitioner seeks enhancement in the amount of interim maintenance as awarded by the trial Court during pendency of proceedings for divorce initiated by the respondent herein. The petitioner and the respondent were married on 30/11/2012 and have been blessed with a son. The respondent in December 2017 filed a petition for divorce on the ground of cruelty. In those proceedings the petitioner filed an application below

Exhibit-9 seeking maintenance *pendente lite* under Section 24 of the Hindu Marriage Act, 1955. In that application it was prayed that since the petitioner was not in a position to maintain herself and her son, the respondent be directed to pay amount of Rs.10,000/- per month to her and Rs.5,000/- per month as maintenance for her son. In reply filed to the said application the respondent admitted that he was in service at M.S.E.D.C.L. Baramati Division and having gross salary of Rs.65,000/-. After deductions he was receiving net salary of Rs.56,000/-. It was further pleaded that various deductions were required to be made from his salary and thus he was left with a meagre amount. The trial Court after considering the aforesaid aspect directed payment of an amount of Rs.4000/- per month for the petitioner and Rs.2000/- per month for the minor son to be paid from the date of application till decision of the proceedings. The petitioner not being satisfied with the quantum of interim maintenance has filed the present writ petition.

2. The learned counsel for the petitioner submits that since the respondent has admitted receiving gross salary of Rs.65,000/- per month the trial Court ought to have awarded higher maintenance. The petitioner was entitled to maintain herself at the same standards as the respondent maintained himself. Besides that the petitioner was also taking care of the minor son who is aged about four years. It is thus submitted that the amount

of maintenance as awarded deserves to be further enhanced.

3. The learned counsel for the respondent on the other hand submits that though the net salary of the respondent is Rs.56,000/-, after making various deductions only an amount of Rs.8,000/- per month is left with him. The amount of maintenance awarded by the trial Court was just and proper not requiring any further enhancement. He referred to various documents placed on record to indicate deductions being made from the salary of the respondent and submitted that the impugned order was just and proper.

4. Heard the learned counsel and perused the documents on record. It is an admitted position that the respondent who is serving with the M.S.E.D.C.L. is receiving gross salary of Rs.65,000/- per month and net salary of Rs.56,000/- per month. The petitioner as wife is entitled to be maintained at the same standards with which the respondent maintains himself. The petitioner is also required to take care of the minor child who is stated to be about four years. The respondent seeks to rely upon various deductions being made from his salary. Some of the deductions as indicated appear to be of an optional in nature. Taking a prima facie view of the matter and after considering the net salary of the respondent it is found that the petitioner is entitled for enhancement in maintenance amount. It is hence directed that the petitioner is entitled to be paid interim maintenance

at the rate of Rs.8,000/- per month while the minor son is entitled to Rs.4,000/- per month. Accordingly, the impugned order dated 23/08/2018 is partly modified. The petitioner is entitled to receive amount of Rs.8,000/- per month towards maintenance and the minor son is entitled to receive Rs.4,000/- per month. With this modification, the Writ Petition is partly allowed and disposed of. No costs.

JUDGE

Asmita