

IN THE COURT OF ADDL. CHIEF JUDICIAL MAGISTRATE,
09TH COURT, BANDRA, MUMBAI

C.C.NO. 218/DV/2021

Smt. Urmila Rajesh Helkar

..... Applicant

Vs.

Rajesh Bhanudas Helkar & Ors.

..... Respondents

ORDER BELOW EXHIBIT - 37

The present application is filed by applicant/wife for issuance of distress warrant against respondent no.1/husband. It is submitted by applicant that this Court has passed order of interim maintenance dated 13/07/2022 in her favour. As per said order, respondent no.1 is directed to pay interim maintenance of Rs.10,000/- per month and provision of rent for alternate accommodation of Rs.10,000/- per month. The respondent no.1 has paid Rs.1,50,000/- so far in part compliance of said interim maintenance order. However, due amount of Rs.8,30,000/- is in arrears. The applicant has no independent source of income and she is at mercy of her brother and sister. Respondent no.1 has sufficient income to pay interim maintenance amount. Therefore, she has prayed for distress warrant against respondent no.1 for recovery of Rs.8,30,000/- towards arrears of interim maintenance.

2. Respondent no.1 has strongly objected the present application. It is submitted that, as per the order of Hon'ble Supreme Court, the respondent no.1 is liable to pay for house taken on rent in Pune. Respondent no.1 has paid fully rent till the applicant was

residing at Pune. The said direction of Hon'ble Supreme Court is still in force. As the original order of interim maintenance is modified by Hon'ble Supreme Court, the applicant is not entitled for relief claimed. Hence, he prayed for rejecting the application.

3. Perused the application Exh.37 and say below it. Heard both sides arguments. Perused entire record.

4. As per record, this court has passed the order dated 13/07/2022 granted interim relief to the applicant. As per said order, Rs.10,000/- per month towards interim maintenance and Rs.10,000/- per month towards rent for alternate accommodation is granted in favour of the applicant. As per point no.4 discussion of the said order, provision of rent in lieu of providing alternate accommodation is granted in favour of the applicant for Rs.10,000/- per month.

5. Perused order dated 25/04/2023 of the Hon'ble Supreme Court of India in Petition for Special Leave to Appeal (CRL) No.8399/2022. Perused order dated 06/11/2023 and 24/03/2026 in Petition for Special Leave to Appeal (CRL) No.8399/2022.

6. It is clear from record that the original reasoning of point no.4 of the order dated 13/07/2022 granting interim provision of rent for alternate accommodation passed by this Court, is never challenged by either party before the Hon'ble Supreme Court. It is clear from submissions of both sides that the issue of custody of children and visitation right of mother were under challenge before the Apex Court. It is clear from record that it was the issue of facilitating mother to spend time with her two children, who were residing with father at

Pune. As mother is residing in Mumbai the said adjustment was directed. Accordingly, the said order of Hon'ble Supreme Court is for facilitating the arrangement so that both the children can visit their mother and spend time with her during weekend starting Friday evening till Sunday Evening.

7. Considering all these facts and directions of Hon'ble Supreme Court in that respect, it is clear that there is no any direction of the Hon'ble Supreme Court for not to provide rent or stop paying rent of Rs.10,000/- in lieu of alternate accommodation. There is no any direction of the Hon'ble Supreme Court that wife has to compulsorily stay at Pune only, in order to claim the rent of Rs.10,000/- in lieu of alternate accommodation. Therefore, in my opinion, argument of Learned Advocate for respondent no.1/ husband in that respect is not proper.

8. Further, Learned advocate for applicant/wife has submitted that it is not possible for applicant/wife to stay at Pune, because already she has been framed in criminal case under the provision of the Protection of Children from Sexual Offences Act, 2012.

9. Considering all the facts on record, in my opinion, the argument of learned Advocate for respondent no.1 that the original order of provision of rent is modified, is not proper interpretation. As per the order dated 13/07/2022 of this Court under interim maintenance application, the applicant/wife is entitled for rent of Rs.10,000/- per month towards alternate accommodation. Therefore, the objection raised by respondent no.1 for non payment of amount, is meritless. Apart from that, respondent no.1 has not challenged the

amount of arrears of interim maintenance order dated 13/07/2022. Considering all these facts, in my opinion, it is proper to issue distress warrant against respondent no.1 for recovery of huge arrears of interim maintenance. Therefore, I proceed to pass following order.

ORDER

1. The application Exh.37 filed by the applicant, is allowed as prayed.
2. Issue Distress Warrant against respondent no.1 for recovery of Rs. 8,30,000/- (Rs. Eight Lakhs Thirty Thousand only).

(V. U. Misal)

Addl. Chief Judicial Magistrate,
9th Court, Bandra, Mumbai

Date :- 18/06/2026