

ORDER BELOW EXH.10 IN Cri. Misc. Appln. No. 40/2021
(Vaishali Rupesh Thombare Vs. Rupesh Krushnarao Thombare)

This is an application moved by the applicants seeking a relief for attachment of salary of non-applicant to recover the arrears of maintenance amount.

2. It is contended by the applicants that, application under Protection of Women from Domestic Violence Act, 2005 was instituted, which was partly allowed on 15/09/2017. Thereafter, non-applicant had filed an appeal before Hon'ble Sessions Court and in said appeal as per order dated 18/06/2019 the maintenance amount was modified. It is further contended that, thereafter, the present applicants have filed an Criminal Writ Petition No. 372/2021, in said Writ the Hon'ble Bombay High Court as per order dated 11/01/2022 has set aside the order passed by Sessions Court and the order of Trial Court dated 15/09/2017 was confirmed.

3. The applicants by way of present application have contended that, the non-applicant gets salary and the non-applicant is not paying the amount. It is also contended that, the non-applicant is serving in Jankidevi Bajaj Science College, Wardha and he is now reinstated and now receiving huge salary. The applicant by way of present application has contended that, the amount of Rs.2,64,000/- is due towards the non-applicant. Hence, it is prayed that, arrear be recovered by attaching the salary of non-applicant.

4. In the present matter from the record it is evident that, there are many other matters pending between the same parties. Further, the non-applicant while was present in one of the matter was directed to take

a note of present matter vide order passed below Exh. 7. Thereafter he though within the knowledge had not appeared and done needful. The non-applicant though opportunity granted failed to file say over present application.

5. Perused the entire record. Heard Ld. advocate for the applicant. Record shows that, in present matter, by way of order passed below Exh. 6, the applicant has done the necessary amendment. Further, the applicant has filed certified copy of application and order of Exh. 24 moved in Cri. M.A. No. 101/2018. After perusing the same, it reveals that, the arrear amount of Rs. 2,64,000/- as per order dated 8/12/2023 was attached. Further, said order shows that, it is not disputed by the parties that, the order passed in P.W.D.V.A. Application No. 62/2015, dated 15/09/2017 is been confirmed by the Hon'ble Bombay High Court as per order dated 11/01/2022 passed in Criminal Writ Petition No. 372/2021. Further, the applicant has done the necessary amendment as per order passed below Exh.6. Further, it is also not disputed that, the non-applicant is been reinstated in service and he is serving at Jankidevi Bajaj College of Science, Wardha.

6. From the record it is evident that, as per order dated 15/09/2017 total maintenance of Rs.22,000/- and compensation of Rs.60,000/- is been awarded. The applicant has filed the main application for recovery of Rs.2,64,000/- for the period of 09/09/2018 to 10/09/2019. The applicant has also filed abstract of Bajaj College, Wardha, which shows that, for the period of May to July, 2023, the non-applicant was receiving basic salary of Rs.92,600/-. Further, the order passed in Cri. M.A. No. 101/2018 vide Exh.24 shows that, in Cri. MA. No. 45/2017 the non-applicant himself has contended that, after all deduction

he receives Rs.42,204/- in hand. In present matter also the non-applicant was granted an opportunity but he failed to do needful. Today also the non-applicant is not present. So this all shows that, non-applicant though opportunity given failed to pay the maintenance amount.

7. So considering all above aspects, I hold that, to recover the arrears of maintenance of Rs.2,64,000/- the salary of non-applicant has to be attached. Considering the quantum of salary, I hold that, amount of Rs.24,000/- per month be attached from the salary of non-applicant. Hence, I proceed to pass the following order.

ORDER

1. Application is partly allowed.
2. The salary of non-applicant to the extent of Rs.24,000/- per month till the recovery of Rs.2,64,000/- is hereby attached.
3. Issue letter to the concern institution i.e. Jankidevi Bajaj College of Science, Wardha to do the needful as per order passed above.
4. The concern institution is directed to attach the salary as mentioned above and deposit in present Court, thereafter, the said amount be paid to the applicants.

Date:-03/12/2024
Karanja (Gha.).

(V.S. Wagh)
Judicial Magistrate, F.C.,
Karanja (Gha.), Dist. Wardha.