

1. **Order Below Exh. 09**
(Dated 21/02/2019)

1. This is an application filed under Section 24 of the Hindu Marriage Act, 1955 by the present respondent Sapana for grant of interim maintenance. (For convenience parties are referred by their first name.)

2. Present petition is filed by Praful under Section 13(1)(i-a) (i-b) of the Hindu Marriage Act, 1955 for divorce. In the said proceeding respondent Sapana filed present application. In the said application she stated that, she has been residing with her parents at Akola,Tq. and Dist.Akola. She stated that applicant has filed present false petition against her. She further stated that she has no source of income. Hence, she has to live on the mercy of her parents. However, petitioner is serving as Police Constable with Home Department and getting salary of Rs.30,000/- to Rs.35,000/- per month. Hence, she prayed for grant of interim maintenance of Rs.10,000/- per month for herself. In addition to that she prayed for grant of litigation charges of Rs.5,000/-.

3. Petitioner filed his say on the application itself and opposed the application. In his say petitioner stated that the respondent Sapana has been residing separate from him at her sweet wish without having any reason. He tried to bring her back for cohabitation but the respondent did not give any response to him. He further stated that, even after issuance of notice by him, the respondent did not join his company for cohabitation. He further stated that, he has no source of

income. On such counts he prayed for rejection of application.

4. Heard both sides.

5. In the case in hand the relationship as to husband and wife existing between the petitioner and respondent Sapana is not at all disputed. As mentioned above, the respondent Sapana prayed for grant of interim maintenance of Rs.10,000/- per month for herself. In addition to that she prayed for grant of Rs.5,000/- towards litigation charges. The respondent Sapana in her application stated that the petitioner is serving as Police Constable and getting salary of Rs.30,000/- to 35,000/- per month. In the case in hand the petitioner in his say stated that he has no source of income. However, he has not denied the fact that he is serving as Police Constable. Moreover, in para No.3 of his petition itself petitioner Praful stated that he has been serving as Police Constable since prior to his marriage with the respondent. It means that the petitioner is salaries person. Therefore, for non production of document as to income of petitioner by the respondent, it cannot be held that the petitioner is not having source of income. But, from the admitted position it can be presumed that he gets salary of Rs.20,000/- per month.

6. On the contrary, there is no material on record to show that the respondent has any source of income sufficient to support herself. The present application is under section 24 of the Hindu Marriage Act, under which interim maintenance is provided for wife or husband. Thus, considering the aforesaid factual aspects and taking

into consideration financial position of the petitioner, to my mind the respondent Sapana is entitled to get maintenance including proceeding charges of Rs.6,500/- per month. Hence, I pass the following order.

ORDER

1. Application Exh. 09 is allowed partly with costs.
2. The Petitioner Praful is directed to pay Rs.6,500/- (Rs. Six Thousand Five Hundred only) per month to the respondent Sapana towards interim maintenance and expenses of the proceeding from the date of this application i.e. from 30/07/2018 till the disposal of the main petition.
3. The petitioner Praful shall pay aforesaid amount of interim maintenance on or before 10th day of each month as per English Calendar.

Dt. 21/02/2019

Sd/-
(S. P. Shinde)
Civil Judge (Sr. Dn.),
Washim.

हिंदु विवाह अर्ज क्र.६३/२०१८
प्रफुल वि. सपना

आदेश नि.१२ खाली

१. अर्जदाराने दाखल केलेला प्रस्तुतचा अर्ज आणि गैरअर्जदाराने त्यावर दिलेल्या जवाबाचे अवलोकन केले.
२. दोन्ही बाजूंचा युक्तीवाद एकुण घेतला.
३. आज रोजी प्रकरण गैरअर्जदार हिने दाखल केलेला अर्ज नि.९ वर अर्जदाराने जवाब देण्यासाठी नेमलेले होते. परंतु वारंवार पुकारा करून देखिल अर्जदारातर्फे प्रकरणामध्ये कोणी हजर झाले नाही. त्यामुळे गैरअर्जदार हिने दाखल केलेला अर्ज अर्जदाराच्या जवाबा शिवाय चालविण्याचा आदेश पारीत करण्यात आला. त्या अनुषंगाने अर्जदाराने प्रस्तुतचा अर्ज दाखल करून त्याच्या विरुद्ध गैरअर्जदार हिने दाखल केलेला अर्ज नि.९ ला त्याचा जवाब नाही असा झालेला आदेश रद्द करून त्याला त्या अर्जावर जवाब देण्याची संधी देण्यात यावी अशी विनंती केली आहे.
४. वारंवार संधी देवून देखिल अर्जदाराने गैरअर्जदार हिने दाखल केलेल्या अर्जाला त्याचा जवाब दिला नाही. तसेच सदरचा अर्ज अर्जदार याने प्रकरण लांबणीवर टाकण्यासाठी दाखल केला आहे. त्यामुळे अर्जदाराचा सदरचा अर्ज ५०००/-रूपये खर्चासह नामंजुर करावा अशी विनंती केली आहे.
५. गैरअर्जदार हिने नि.९ हा अंतरिम पोटगी मिळण्यासाठी दाखल केला आहे. त्या अर्जावर अर्जदार याला त्याचा जवाब देण्याची संधी न दिल्यास निश्चितच तो अर्ज एकतर्फी चालून अर्जदार याचे नुकसान होणार आहे. तसेच प्रस्तुतचा अर्ज गुणदोषावर निकाली काढण्यासाठी अर्जदाराला गैरअर्जदाराने दाखल केलेल्या अंतरिम पोटगीच्या अर्जावर जवाब देण्याची संधी देणे आवश्यक आहे. अशा प्रकारे वरील बाबीचा विचार करता अर्ज मंजुर करण्यात येते.

स्वा

(एस.पी.शिंदे)

दि.२१/०२/२०१९

दिवाणी न्यायाधी व.स्तर,वाशिम

CERTIFICATE

I affirm that the contents of this P.D.F. File Judgment/ Order are same word to word, as per the original Order.

Name of the Stenographer :- R.M.Rajurkar, Stenographer

Court Name :- Civil Judge (Sr.Dn.), Washim

Date :- 21/02/2019

Order signed by the Presiding Officer on :- 21/02/2019

Order uploaded on :- 21/02/2019