



Cri. M.A. No. 64 of 2020
Sau. Humanaushin vs- Humayu
MHYA050053302020

ORDER BELOW EXH. 45

(19.03.2024)

This is an application filed by applicant no. 01, Sau. Humanaushin Humayu Asgar Ansari, to issue recovery warrant of Rs. 07,40,000/- against the non-applicant.

02. Today the advocate for the non-applicant filed his say and strongly resisted the application.

03. I heard advocate Shri. S.R. Shaikh for applicants and advocate Shri. Arif Ahmed for the non-applicant.

04. The advocate for applicants argued that on 08.01.2024 an order below Exh. 38 is passed and non-applicant is directed to pay interim maintenance of Rs. 15,000 per month to applicant no. 01 and Rs. 5000/- per month to non-applicant no. 02. The Court allowed the interim maintenance from the date of filing of main application (Exh. 01). Now the non-applicant is required to pay interim maintenance of Rs. 07,40,000/- for 17 months till 10.01.2024. Today the non-applicant paid Rs. 20,000/- only. The non-applicant ought to pay at least 50% amount. There is no stay order of Hon'ble Sessions Court. He further argued that Ramjan is going on. Since 2020, in four Eid the applicant faced financial crisis. Hence considering the upcoming Eid, the non-applicant ought to pay at least 50% amount. But the non-applicant paid

only Rs. 20,000/-. Hence prayed to allow the application.

05. On the other hand, the advocate for non-applicant argued that the revision application is pending before Hon'ble Sessions Court. The father of the non-applicant is 75 years old. Recently he faced heart surgery. The non-applicant spent Rs. 3,50,000/- for surgery. Mother of the non-applicant is old age. On surgery of her eye, the non-applicant spent Rs. 1,00,000/-. He further argued that the non-applicant earning only Rs. 15,000/- per month. Applicant no. 01 is able to maintain herself. Applicant no. 01 has not filed any document to show that she is unable to maintain herself. Hence prayed to reject the application.

06. On perusal of record, it appears that on 08.01.2024 I passed an order below Exh. 38 and directed the non-applicant to pay interim maintenance of Rs. 15,000 per month to applicant no. 01 and Rs. 5000/- per month to non-applicant no. 02. I allowed the interim maintenance from the date of filing of main application (Exh. 01). The non-applicant is required to pay interim maintenance Rs. 07,40,000/- of 17 months till 10.01.2024. Till today the non-applicant paid Rs. 20,000/- only.

07. On 30.01.2024 the applicant filed this application to issue recovery warrant of Rs. 07,40,000/- against non-applicant. On same day i.e. on 30.01.2024 I called say of non-applicant. Today the advocate for non-applicant filed his say and resisted the application. Today itself the advocate for non-applicant filed certain documents along with list of documents (Exh. 51). On perusal of documents, it appears that on

08.03.2024 a bill of Rs. 02,50,000/- was paid. On relying on the words of advocate for non-applicant it consider that the non-applicant spent Rs. 1,00,000/- for surgery on eye of his mother. But while deciding application Exh. 38, I have discussed that the financial condition of non-applicant is very sound.

08. Apart from this on 08.01.2024 I passed an order below Exh. 38 and allowed an interim maintenance to applicants. On 30.01.2024 the applicant filed this application to issue recovery warrant of Rs. 07,40,000/- against non-applicant. It suggests that since 08.01.2024 to till today the non-applicant has more than two months to take stay on the order on interim maintenance passed below Exh. 38 from Hon'ble Sessions Court. But he fails to do so. Admittedly, since filing of application (Exh. 01) today only the non-applicant paid Rs. 20,000/- to the applicant. Apart from this on 11.04.2024 there is Eid. Hence the non-applicant has to pay the arrears amount to the applicants. Hence the following order,

ORDER

1. Application is allowed.
2. Issue recovery warrant of Rs. 07,40,000/- (Rs. Seven Lakh Forty Thousand only) against non-applicant.
3. Parties to take note.

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Place: Pusad
Date: 19.03.2024

(Govind S. Varpe)
Judicial Magistrate First Class,
Court No. 05, Pusad, Dist. Yavatmal