

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10802 OF 2019**

Mrs. Chaitali Brijesh Shah	 Petitioner.
V/s	
Mr. Brijesh Mukund Shah	 Respondent.

Ms. Seema Sarnaik with Ms. Sangeeta Salvi for the Petitioner.
Ms. Rui Danawala i/b Mr. Umesh Mankapure for the Respondent.

CORAM: NITIN W. SAMBRE, J.

DATE: JUNE 28, 2021

P.C.:-

1] Heard Ms Sarnaik, learned Counsel for the Petitioner-wife. According to her, out of wedlock two daughters were born; one on March 1, 2005 whereas younger one on April 9, 2008. According to her, divorce proceedings were initiated in 2014 by the Respondent-husband. She would claim that as against the claim for interim maintenance of Rs 15,000/- for daughters what is granted is Rs 7,500/- that too without any justification. Further contentions are, the Family Court committed an error in refusing to grant maintenance to the Petitioner-wife.

2] Ms. Danawala, learned Counsel appearing for Respondent would urge that apart from the fact of pendency of proceedings under Negotiable Instruments Act against the Company who has issued cheque of Rs 21 lakhs, the fact remains that Respondent-husband is already removed from the Firm and that being so, he is in financial difficulty. She would further claim that she wants some time to take instructions in the matter.

3] I have perused the order impugned. It is apparent that Respondent-husband is living luxurious life as can be gathered from the observations as are reflected in para 10 onwards in the order impugned. In my opinion, observations that the monthly earning of Respondent-husband is Rs 30,000/- cannot be borne out of the record, particularly in the backdrop of the factual matrix about style of living by the Respondent-husband and his qualification, source of income etc. As such, this Court considering the prayer for adjournment moved by the the Respondent, pass the following order:-

ORDER

(i) Respondent-husband within a period of four weeks from today shall deposit entire amount of arrears of maintenance before the Family Court.

(ii) By way of interim order, enhancement to the tune of Rs 15,000/- to each of the daughters is ordered and let this amount be paid with effect from 01/01/2021 to be deposited alongwith arrears as ordered hereinabove.

(iii) The Petitioner shall furnish, as a proof, details of amount incurred towards educational expenses of daughters before the Family Court. Respondent-husband is further directed to reimburse the said amount by the end of every calendar month by depositing the same in the Family Court.

(iv) As far as issue of payment of maintenance to the

Petitioner-wife is concerned, considering the fact that she is an employer and holds qualification of Bachelor in Engineering, the said issue can be considered at the later stage of the proceedings. Prayer for adjournment made by the Respondent is allowed.

(v) Matter to come up for hearing on 10th August, 2021.

In the meantime, by way of last chance, time is granted to the Respondent to file affidavit-in-reply on merits of the matter. Needless to clarify that Petitioner-wife will be entitled to withdraw the arrears and expenses amount as is directed to be deposited by the Respondent-husband.

(NITIN W. SAMBRE, J.)