

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 28<sup>TH</sup> DAY OF JUNE, 2013

BEFORE

THE HON'BLE MR.JUSTICE MOHAN .M. SHANTANAGOUDAR

WRIT PETITION NO.8391/2013 (GM-FC)

BETWEEN :

BAVA SAHEB MIYAN @ SHAH ZAFAR  
AGED ABOUT 31 YEARS  
SON OF SHAH DILAWAR @ B.M. BASHA  
RESIDING AT NO.27-1-519-145, B.M. ROAD  
OPP. NEW JANATHA SAW MILL  
CHANNAPATNA-571501.

... PETITIONER

(BY SRI AJITH KUMAR A.S., ADV.,)

AND:

SMT. HEENA MARIYAM  
WIFE OF SRI BAVA SAHEB MIYAN @ SHAH ZAFAR  
DAUGHTER OF SRI MAHABOOB ALI KHAN  
AGED ABOUT 24 YEARS  
RESIDING AT NO.24/42  
STORE STREET, KALISIPALYAM  
BANGALORE-560002.

... RESPONDENT

\* \* \*

THIS WRIT PETITION IS FILED UNDER ARTICLES  
226 AND 227 OF THE CONSTITUTION OF INDIA,  
PRAYING TO SET ASIDE THE ORDER DATED DEC 06,  
2012 PASSED ON IA FILED U/S 125 OF THE CR. PC

1973 IN CRL. MISC 22/12 PASSED BY THE COURT OF PRL. JUDG FAMILY COURT, BANGALORE VIDE ANNEX-E, AND ETC.,

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING THIS DAY, COURT MADE THE FOLLOWING:

**ORDER**

The Family Court has awarded Rs.5,000/- per month towards interim maintenance in favour of the respondent-wife.

2. None of the parties have produced any material to show the exact income of both the parties. Therefore, the Family Court has chosen to award maintenance based on probabilities.

3. Having regard to the present days' cost of living, Rs.5,000/- per month, awarded in favour of respondent, cannot be said to be on the higher side. Since the order of the Court below cannot be said to be illegal, the same need not be interfered with.

Since the impugned order merely is relating to an interim maintenance, it is always open for the petitioner to seek modification of the order before the Family Court by producing appropriate material on subsequent facts. If the respondent has re-married, the same shall have to be proved before the Family Court by the petitioner for getting the impugned order set-aside.

With the aforesaid observations, writ petition stands ***dismissed***.

**Sd/-  
JUDGE**

\*ck/-