

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL REVISION APPLICATION NO. 146 OF 2015

Manoj Shantaram Mahajan .. Petitioner

Versus

Sulbha Manoj Mahajan .. Respondent

Shri Suraj P. Tiwari, Advocate for the Petitioner.
Shri Dhananjay P. Deshpande, Advocate for Respondent.

CORAM : S. V. GANGAPURWALA, J.

DATE : 19TH OCTOBER, 2015.

PER COURT :

. The present petitioner had filed hindu marriage petition seeking the decree of divorce or in alternate restitution of conjugal rights.

2. The suit came to be dismissed. The petitioner filed an appeal bearing Civil Appeal No. 78 of 2011 before the District Court. On 20th October, 2011 the District Court directed the appellant/petitioner to pay cost of Rs. 150/-. It further directed if cost is not paid on or before 31.10.2011, the consequences would follow. As such on 31.10.2011 for non payment of cost of Rs. 150/- the appeal is dismissed.

3. It is submitted by the learned counsel for the petitioner that, the petitioner was not made aware of the said order. The advocate for the petitioner was also absent. The petitioner is ready to pay the cost.

4. Mr. Deshpande, the learned counsel submits that, the petitioner is not interested in prosecuting the matter, but in harassing the respondent. Even before the Trial Court the petitioner and his counsel use to remain absent.

5. I have considered the submissions and record. The order was passed by the District Court directing the petitioner to deposit cost of Rs. 150/-. The same is not yet deposited. The petitioner states that, the petitioner is ready to deposit the amount, however, was not intimated of the order by his advocate.

6. Considering that the dispute is with regard to Hindu Marriage Act, I am inclined to grant opportunity to the petitioner/appellant. However, the petitioner deserves to be mulct with further cost.

7. In the result I pass following order.

8. The impugned order is quashed and set aside. The appeal is restored to it's original position on condition that the petitioner

deposits cost of Rs. 5,000/- (Rs. Five thousands only) to be paid to the respondent on or before 19.11.2015 before the District Court. In addition to Rs. 150/- cost as was directed by the District Court. The payment of cost is condition precedent. In case cost as directed above is deposited, then the District Court shall hear the appeal on its own merits. In case the cost is not deposited, the appeal shall stand dismissed. The parties shall appear before the District Court on 19.11.2015. The record and proceedings be sent back immediately. The civil revision application is disposed of.

[S. V. GANGAPURWALA, J.]