

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

WRIT PETITION NO.10114 OF 2013

Namrata d/o Dashrath Nagare

..Petitioner

Versus

Dashrath s/o Gangaram Nagare

..Respondent

CORAM : N.W. SAMBRE, J.

DATE : 27th January 2015

PER COURT

1. The petitioner filed Special Civil Suit No.35 of 2010 against present respondent, her father claiming maintenance of Rs.10,000/- per month and also a lump sum amount of Rs.3 lacks spent by her maternal grand mother on her education and Rs.7 lacks on her marriage.

2. The said proceedings reached at the stage of recording of evidence and as the present petitioner remained absent, the proceedings came to be dismissed.

3. The application moved under Order IX Rule 4 of the Code of Civil Procedure came to be rejected by order dated 7th October 2013 by the Civil Judge, Senior Division, Amalner, on the ground that no sufficient case was established, as such present writ petition.

4. The unfortunate part of the present petition is that a married daughter has filed proceedings against her father, for maintenance, recovery of amount spent on education and marriage, to be paid to maternal grandmother, who has spent the same on her.

5. The efforts by both the Counsel for mediation remained unfruitful.

6. By way of last chance, in my opinion, it will be appropriate to grant an opportunity to the petitioner to lead her evidence, as the proceedings came to be dismissed for her and her Counsel's non-appearance.

7. In my opinion, the order impugned is liable to be set aside in the interest of justice, as by way of last chance and having regard to the relationship of the parties to the suit, an opportunity is required to be granted to the petitioner to lead evidence.

8. As such, the order dated 7th October 2013, passed by the Civil Judge, Senior Division, Amalner in Misc.Civil Application No.43 of 2012 is hereby set aside. It is directed that the petitioner shall pay costs of Rs.1,000/- (One thousand) to the respondent within a period of two weeks before the learned trial Court. Payment of costs is condition precedent.

9. Both the parties are in agreement that they shall appear before the learned trial Court on 10th February 2015.

10. Failure on the part of the present petitioner to lead evidence on the next date fixed by the trial Court shall result in ceasing of the said right before the learned trial Court.

11. With above observations, writ petition stands disposed of.

(N.W. SAMBRE, J.)

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