

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Criminal Writ Petition No.237 of 2015
(Sarang Kale V/s Mrs. Shital Kale and another)

Office Notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.

Court's or Judge's orders

{ Shri D.T. Shinde, Adv for petitioner.
 Shri N.R. Bhishikar, Adv for respondents.}

CORAM : A.B. CHAUDHARI, J.
DATED : 22.06.2015.

Heard the learned Counsel for the
 rival parties.

The learned trial Judge by an unspeaking order allowed the application (Exhibit-61) by permitting the respondent/wife to examine the additional witnesses in support of her case. Admittedly, the respondent/wife had already examined herself. Thereafter she did not attend on the appointed date i.e. on 24-07-2014. According to the respondent/wife, her Advocate wrongly noted the date 25-07-2014 instead of 24-07-2014 and that is why the confusion occurred and when on 25-07-2014, her Advocate went to the Court, found that her side was

already closed on 24-07-2014 and the matter was adjourned to 16-08-2014. On 16-08-2014, the learned Counsel for the non-applicant again sought adjournment. The learned trial Judge allowed the application in the interest of justice and fair trial.

Shri Shinde, the learned Counsel for the petitioner/husband submitted that the impugned order made by the trial Court in the first place is not a reasoned order. He then submitted that the respondent/wife remained absent on 24-07-2014 and then asked adjournment on 16-08-2014. He, therefore, states that her conduct was not bonafide.

Upon hearing the learned Counsel for the rival parties, I find that it is true that the impugned order is non-speaking order. I have seen the entire record and I find that the Advocate for the wife had noted wrong date i.e. 25-07-2015 in place of 24-07-2014 and therefore the application was made, which was allowed by the impugned order for adducing the evidence of her witnesses. It is submitted that

on 16-08-2014 instead of bringing the witnesses she applied for adjournment but then the fact remains that the same was allowed. The pending case is not very old and no purpose could be achieved by providing her an opportunity to lead the evidence of her witnesses in addition. In other words, there is no reason to interfere with the impugned order, but then the respondent/wife ought to be given a warning not to protract the trial and therefore an order of costs of Rs.500/- on her should sub-serve the interest of justice. Hence, I make the following order :-

Order

A] Criminal Writ Petition No.237 of 2015 is not entertained and is disposed of.

B] The respondent/wife shall pay the costs of Rs.500/- to the petitioner/husband on or before the next date, which could be adjusted in the maintenance amount and shall not protract the trial.

C] The trial Judge shall then be heard the parties concerned and allowed her to adduce additional evidence.

JUDGE

Deshmukh