

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.

WRIT PETITION NO.3142 OF 2014

(Sau. Meena Anil Warhade ..vs.. Anil Pandurang Warhade)

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

Court's or Judge's orders

CORAM : Z.A. HAQ, J.

DATED : 09-09-2015

None appears for the petitioner.

Heard Shri S.D. Chande, learned Advocate for the
respondent.

2. The petitioner-wife has filed this writ petition challenging the order passed by the trial Court, rejecting the application filed by the petitioner praying for condonation of delay in filing the application for setting aside *ex-parte* judgment.

3. The respondent had filed Hindu Marriage Petition No.195/2006 under Section 13(3) of the Hindu Marriage Act for dissolution of marriage by mutual consent. This petition was decided *ex-parte* by the judgment dated 01-12-2010. According to the petitioner, because of her illiteracy, she could not defend the proceedings properly. The petitioner filed an application for setting aside the *ex-parte* judgment. As there was delay of about six months and eleven days in filing the application, the petitioner filed an application under Section 5 of the

Limitation Act praying for condonation of delay. The learned trial Judge, after considering the submissions made by the respective parties, has rejected the application praying for condonation of delay and consequently, the application praying for setting aside the *ex-parte* judgment is also dismissed. The petitioner being aggrieved in the matter has filed this writ petition.

4. I have examined the documents placed on the record of the writ petition, with the assistance of the learned Advocate appearing for the respondent. The learned trial Judge has considered the relevant facts in paragraph Nos.6 and 7 of the impugned order. The findings recorded by the learned trial Judge that the petitioner has not been able to show that she was prevented from sufficient cause in filing the application for setting aside the *ex-parte* judgment, within limitation, cannot be faulted with. I do not find any perversity in the reasonings recorded by the learned trial Judge. Apart from this, the respondent has stated in the reply filed before this Court that the petitioner has received Rs.1,25,000/- from the respondent towards full and final settlement and she has issued receipt showing that the amount is received by her. This fact is also considered by the learned trial Judge in paragraph No.6 of the impugned order. I see no reason to interfere with the impugned order.

5. The petition is dismissed. In the circumstances, the parties to bear their own costs.

JUDGE

pma