

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

WRIT PETITION NO.5475 OF 2014

Santosh Sakharamrao Yavalikar

-vs-

Dr Ratnamala Santosh Yavalikar

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

Court's or Judge's Orders.

Shri S. A. Saoji, Advocate for petitioner.
Shri O. Y. Kashid, Advocate for respondent.

CORAM : A.S.CHANDURKAR, J.

DATE : AUGUST 10, 2015

Rule. Heard finally with consent of learned counsel for the parties.

The order passed by the trial Court rejecting the application for amendment vide Exhibit-20 is under challenge.

The petitioner has filed proceedings for divorce on 11/03/2013. After the issues were framed, the petitioner sought to amend the petition on the basis of certain events that had occurred after filing the petition. In respect of pleadings relating to the period prior to the filing of the proceedings, it was stated that as the proceedings were required to be filed immediately, some aspects had not been specifically pleaded.

The application was opposed by the respondent and the trial Court by the impugned order rejected the application on the ground that reasons given by the petitioner would not found acceptable.

Having heard the respective counsel and having gone through the documents filed on record, it is clear that the petitioner seeks to bring on record certain additional pleas including subsequent events in support of the prayer for divorce. The trial has admittedly not commenced and only issues have been framed. Considering the relief as sought in the divorce petition, the prayer for permission to amend the petition deserves to be granted. It is always open to the respondent to consequentially amend her pleadings if so desired. The trial Court was not justified in refusing the amendment moreso when the trial had not commenced.

Hence the following order is passed :

- (i) The order dated 04/07/2014 passed below Exhibit-20 is set aside. Instead, application below Exhibit-20 is allowed.
- (ii) The respondent is at liberty to consequentially amend the written statement. The petition shall be decided on its own merits.
- (iii) Rule is made partly absolute in aforesaid terms with no order as to costs.

JUDGE