

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9046 OF 2012

Anil M. Shinde	..	Petitioner
VS.		
Savita Anil Shinde	..	Respondent

Mr. Suhas Deokar i/b. Mr. Sachin B. Chandan for Petitioner.
Mr. N. R. Bubna for Respondent.

CORAM : M. S. SONAK, J.
DATE: 10 OCTOBER 2016

P.C :

1] Mr. Suhas Deokar, learned counsel who holds for Mr. Sachin Chandan, learned counsel for the petitioner, states that Mr. Sachin Chandan is unable to come today to the Court. Mr. Deokar submits that he has instructions from Mr. Sachin Chandan to say that the petition will be withdrawn. However, Mr. Sachin Chandan awaits written instructions for withdrawal of the petition. On this ground, Mr. Deokar seeks an adjournment.

2] Mr. Bubna, learned counsel for the respondent submits that this is a petition which is directed against the order for interim maintenance. That apart, Mr. Bubna submits that if the record is perused, it is clear that the petitioner has not been pursuing this matter. Mr. Bubna also makes a statement that the interim

maintenance amount is not being regularly paid.

3] If the record is perused, it does give an impression that the present petition was filed, not to prosecute the same but only to delay or deny the payment of interim maintenance on the grounds of pendency of the petition. The petitioner, has delayed service of notice upon the respondent, which was issued on 21 June 2013. On 13 September 2013, learned counsel for the petitioner was absent and a grievance was made on behalf of the respondent that even complete compilation has not been furnished. On 10 January 2014, again counsel for the petitioner was absent and the petitioner applied for time.

4] Again on 18 June 2014 neither the petitioner nor his Advocate were present.

5] On 16 July 2014 Mr. Sachin Chandan made a statement that he has been recently engaged and applied for adjournment. On 6 August 2014 there is a statement that Mr. Chandan seeks additional time to carry out amendment and place certain documents on record. On 6 February 2015, a statement was made by learned counsel for the petitioner that amendment would be carried out within one week.

6] On 20 February 2015, this Court, after recording the manner in which the petitioner or his counsel have proceeded with the matter, in fact dismissed this petition for want of prosecution. However, on the same date, Mr. Chandan mentioned the matter out of turn and the order for dismissal of the petition for non prosecution was recalled. Again, time was applied for and obtained for carrying out amendment. In the order dated 20 February 2015, it was made clear that by way of last chance time to carry out amendment is extended by two weeks.

7] Despite all this, on 9 March 2015, the petitioner once again applied for extension to carry out amendment. Such extension was also granted. The matter appeared on board on at least 3 or 4 occasions later. However, on account of paucity of time, the matter could not be taken up. On 20 August 2016, the matter was once again adjourned.

8] Considering these circumstances, as also the circumstance that the challenge in the main petition is to the order granting interim maintenance, there is no case made out for grant of any further adjournment. From the circumstance that the petitioner has not paid the interim maintenance amount, it is quite clear that the whole

purpose for instituting this petition was to avoid payments. The petition has been unduly protracted and therefore, it is not possible to extend any further indulgence to the petitioner. I am satisfied that the very institution and the manner in which the petition was prosecuted constitutes an abuse of the process of the court.

9] Accordingly, this petition is dismissed with costs which are assessed at Rs.15,000/- (Rupees Fifteen Thousand). The petitioner to pay such costs to the respondent within a period of two weeks from today. The trial court to ensure that such costs are indeed paid by the petitioner to the respondent – wife.

10] All concerned to act on basis of authenticated copy of this order.

(M. S. SONAK, J.)