

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.11788 OF 2016

Mrs. Anu Bhagwan Tarachandani

..Petitioner

Versus

**Bhagwan Parmanand Tarachandani
and another**

..Respondents

Mr. P J. Das for the Petitioner.

Mrs. Rita S. Punjwani for the Respondents.

CORAM : R. M. SAVANT, J.

DATE : 22nd DECEMBER, 2016

PC.

1 The Writ Jurisdiction of this Court is invoked against the order dated 19.07.2014 passed by the Learned Judge of the Family Court No.6, Mumbai, by which order, the application Exh.37 for amendment of the Marriage Petition came to be rejected.

2 The said Marriage Petition No.B-64 of 2012 is principally filed for injunction which can be seen from prayer clauses 19(a) and 19(b). Vide prayer clause 19(a), the relief sought is that the Respondents be restrained from dispossessing the Petitioner from her matrimonial home i.e. Flat No.B-10, 45h Floor, Garden View Apartment Co-op. Housing Society Ltd., Rifle Range Road, Ghatkopar (West), Mumbai-400 086. By prayer clause 19(b), the Petitioner is seeking injunction against the

Respondents restraining them from creating any third party rights in respect of the said flat. It seems that by an interim order dated 07.01.2013, the Petitioner was directed to vacate the flat in question so as to facilitate the redevelopment of the building in question as the Petitioner may be an occupant who was not vacating the flat in question.

3 By the amendment sought, the Petitioner is seeking the relief that after completion of construction/redevelopment, the flat that will be allotted to the Respondents, the Petitioner wants to include a relief in respect of the said flat that would be allotted. The Trial Court has taken note of the fact that the Petitioner was directed to vacate the premises on account of the interim order passed by the said Court. The Trial Court has further observed that under the Domestic Violence Act, wife has every right to share the shared household or to stay in the matrimonial house. Except the said right a wife has no right either to hold, own or the possess the property of the husband. She has no title over the property of husband and in laws, except right of possession. The Trial Court has observed that after completion of redevelopment she would be entitled to possess and share the matrimonial house. In my view, having regard to the said observation made by the Trial Court, there is no warrant for this Court to interdict in so far as the amendment sought in respect of the flat is concerned.

4 However the Petitioner is seeking another amendment i.e. the Respondents be directed to return all the “Stridhan” of gold jewellery of 50 Tolas (500 grams). As indicated above, the Marriage Petition has been filed for injunction. The said prayer therefore does not fall within the scope of the Marriage Petition as original filed and would therefore go beyond the scope of the said Marriage Petition. Hence the said amendment cannot be allowed. In my view therefore no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]