

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL WRIT PETITION NO. 903/2015

(Gajanan s/o Manikrao Mandekar vs. Smt. Deepashri Mandekar & another)

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

Court's or Judge's order

.....
Mr. B.N.Mohta, Advocate for petitioner
Mr. N.R.Tekade, Advocate for respondents

CORAM: A.B.CHAUDHARI, J.
DATED : 1st February, 2016.

Heard.

By means of this petition, the petitioner is challenging the order dated 26.10.2015 passed by the learned Judge, Family Court, Akola in Petition No. E-37/2015, by which his application for adjournment came to be rejected. The proceedings relates to enhancement of maintenance under section 127 of the Code of Criminal Procedure.

Learned counsel for the respondents, however, fairly states that with consent, the said impugned order may be set aside, but then the same should be by way of last chance and some time-bound programme should be given.

The reason given in the application for adjournment was that the applicant-husband was busy in some examination, he being the in-charge of the Examination Centre and, therefore, was unable to attend the Court. It may be true that the applicant had

allegedly attempted to procrastinate the progress of the trial, but then the matter relates to the year 2015 and secondly it would not be in the interest of both the parties to allow the matter to go on uncontested, so as to avoid likelihood of remand by the higher court. I am of the view that the respondent-wife can be compensated by a suitable order of cost but then to deny the opportunity of participating in the proceedings at the very first stage, that is, under trial Court, would be wholly improper. One may not find fault in the impugned order, but to subserve the interest of justice, I make the following order :

ORDER

- 1) Writ Petition No.903/2015 is allowed.
- 2) The impugned order dated 26.10.2015 passed by learned Judge, Family Court, Akola, refusing an adjournment is set aside.
- 3) The learned Judge, Family court, Akola shall allow the applicant to participate in the proceedings effectively, including the cross-examination etcetera. The applicant shall not hereafter seek adjournments and cooperate with the trial Judge in disposal of the case, which shall be disposed of within a period of four months from today.
- 4) The applicant shall pay costs in the sum of Rs. 5000/- (rupees five thousand) to the respondent-wife, which shall be the condition precedent.

JUDGE