

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

WRIT PETITION NO.3311 OF 2016

Ramkisan s/o Manikrao Jadhav
Age 33 years, Occu. Labour
R/o Ghaigaon, Tq. Vaijapur,
District Aurangabad

... PETITIONER

VERSUS

Sunita w/o Ramkisan Jadhav
Age 26 years, Occ. Agri.
R/o C/o Shivaji Garje,
Bhushan Nagar, Kedgaon,
Taluka and District Ahmednagar

... RESPONDENT

.....
Shri N.D. Sonavane, Advocate for petitioner
Shri K.N. Lokhande, Advocate for respondent
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CORAM: S. B. SHUKRE, J.

DATED: 15th February, 2017.

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by consent of learned counsel for the parties.

2. By the impugned order, the learned Civil Judge, Senior Division, Vaijapur has rejected the application filed for amendment of pleadings on 6/2/2016. The learned Civil Judge,

Senior Division has reasoned that the proposed amendment being already incorporated in the say filed by the petitioner to the application filed by the respondent seeking interim maintenance, there is no need for there being averred again in the main petition.

3. On going through the Hindu Marriage Petition filed by this petitioner, it becomes clear that the proposed amendments are not referred to anywhere in it by way of pleadings. It is an admitted fact that these additional pleadings are the result of the subsequent developments. Therefore, the only question would be whether they are relevant or not for the purposes of the main petition. Considering the fact that in the compromise arrived at on 6/11/2015 it was agreed between the petitioner and the respondent that the respondent shall take an amount of Rs.2 Lakhs as permanent alimony after dissolution of the marriage, I do not think that by any stretch of imagination it could be said that the proposed amendment has no relevance with the claim made in the Hindu Marriage Petition. The learned Civil Judge, Senior Division has completely mixed up these facts. He has, therefore, perversely recorded the finding that the proposed pleadings are available. This is a fit case for making interference.

4. The Writ petition is, therefore, allowed. The

impugned order is hereby quashed and set aside. The amendment application vide Exh.17 is allowed. The proposed amendment be incorporated as para 7-A to the main Hindu Marriage Petition within four weeks from the date of this order. Consequential amendments to the written statement to that extent only are permitted. Rule made absolute in above terms. No costs.

(S. B. SHUKRE)
JUDGE

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