

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 800 of 2018

Kalpana W/o Nitin More,
age 46 years occupation nil
R/o N-9, R-27, MHADA colony,
Pratap Nagar, HUDCO, Aurangabad.

...Petitioner

VERSUS

Nitin S/o Dashrath More,
age 52 years occupation service
R/o C/o Shri Kasbe, beside Chaitanya Medical,
Gat No. 3, Satara Parisar, Aurangabad.

...Respondent

Mr Ajit M. Gholap, Advocate for petitioner
Mr Chandrakant R. Thorat, Advocate for respondent.

CORAM : SUNIL P. DESHMUKH, J.
DATE : 4th June, 2018

JUDGMENT :

Heard learned Counsel for the petitioner. Rule. Rule made returnable forthwith. The petition is taken up for final disposal with the consent of learned Counsel for the parties.

2. Learned Counsel for the petitioner draws attention to impugned order of which copy is placed on record at page No. 59 (Exh. "I"). He submits that order falls short of reflection about application of mind to the facts and circumstances of the case and further, the order also falls short of considerations required for passing order letting withdrawal of application and filing a fresh application. He submits that the order has been passed without

giving opportunity to writ petitioner. He submits that application had been moved on 4th January, 2018 and order came to be passed on the very day without calling say of petitioner thereon.

3. Learned Counsel Mr Thorat appearing for respondent submits that the application gives sufficient indication about withdrawal of the petition with liberty to file a fresh application. He purports to refer that the petitioner and Advocate concerned had not taken care to file a proper say.

4. It appears that application had been moved on 4th January, 2018 and it has been decided on the very day. In the circumstances, it appears to be expedient to allow opportunity to the parties to re-agitate their case before the Court concerned allowing them to present their case on the application.

5. In view of aforesaid, impugned order passed on application Exh. 27 in proceedings-petition No. A-515 of 2016 is set aside. The Family Court to proceed with the application and decide the same by granting opportunity to the parties. Rule made absolute accordingly.

**(SUNIL P. DESHMUKH),
JUDGE.**