

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

WRIT PETITION NO. 10337 OF 2018

TUKARAM BHIKAJI TAWALE
VERSUS
MRS. LATABAI (LATA) TUKARAM TAWALE @LATA SHESHERAO
ARBADE

...
Advocate for the Petitioner : Shri A.G.Talhar h/f Shri Gaikwad Pramod S.
...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 10th October, 2018

Per Court:

1 I have considered the submissions of the learned Advocate for the Petitioner. A peculiar situation is pointed out.

2 The Petitioner states that when he got married, the name of his wife was shown as "Latabai". After marriage, he started calling her by a shorter name "Lata". Accordingly, he mentioned his wife's name as "Lata" in the official record as his nominee since he was in military services as a Hawaldar. After divorce by consent, the full name of his wife was written in the consent terms as well as in the decree of divorce.

3 Now, the Petitioner has remarried and when he approached the Military Authorities for deleting the name of his first wife Latabai so as to include the name of his second wife, an objection was taken that the

decree of divorce indicates the name as "Latabai" and not "Lata". The Petitioner, therefore, approached the Trial Court with this objection by moving an application under Section 152 of the Code of Civil Procedure. By the impugned order dated 16.03.2018, the Trial Court has rejected MANRJI No.22/2017 stating that he cannot exercise his powers as the difference in the name is not an accidental omission, but it is intentionally mentioned.

4 I am unable to accept the conclusion arrived at by the Trial Court. A pragmatic approach needs to be adopted in such matters, rather than taking a pedantic view.

5 Since none had appeared in the proceedings before the Trial Court since the Respondent was shown to be NIL, I deem it appropriate to interfere in the impugned order.

6 In the light of the above, this Writ Petition is allowed. The impugned order dated 16.03.2018 is set aside and MANRJI No.22/2017 in HMP No.51/2014 is restored before the Trial Court with liberty to the Petitioner to array his former wife as a respondent. The Trial Court shall issue notice to the added Respondent and after her appearance, would get it confirmed as to whether, "Lata" means "Latabai" and whether, the date of marriage was erroneously typed. Based on the same, the Trial Court would proceed to pass an appropriate order to ensure that ends of justice would be met.

7 Liberty to place documents on record to assist the Trial Court
to pass appropriate orders.

kps

(RAVINDRA V. GHUGE, J.)