

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11568 OF 2017

Vaishali w/o Premchand Shelke,
Age-40 years, Occu-Service,
R/o at Present C/o
Uttamrao Sopanrao Lokhande,
House No.1221, Sai Nagar, N-6,
CIDCO, Aurangabad

-- PETITIONER

VERSUS

Premchand Bajrang Shelke,
Age-43 years, Occu-Service,
R/o Chaitanya Nagar, Maihsur Colony,
Near Shiv Mandir Area,
Tq. and Dist. Nanded AND
Kirti M.Doongursee College of Arts,
Science and Commerce College,
Kashinath Dhuru Road, Off.Veer
Sawarkar Marg, Near Agar Bazar
Dadar West,
Mumbai – 400 028.

-- RESPONDENT

Mr.Shivam Jaiswal h/f Mr.M.R.Jadhav, Advocate for the petitioner.
Mr.R.O.Awasarmol, Advocate for the respondent.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 07/06/2018

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by the

consent of the parties.

2. The petitioner/wife is aggrieved by the impugned order dated 12/07/2017 passed by the learned Judge, Family Court, Nanded by which application Exh.117 filed by the petitioner, for recalling the respondent/husband for further cross examination, has been rejected.

3. I have heard the learned Advocates for the respective sides at length. The respondent/husband has strenuously opposed this petition. He submits that he is presently a Junior Lecturer in the College of Arts, Science and Commerce. In support of the impugned order, it is vehemently submitted that the petitioner/wife, on the one hand, is receiving maintenance amount in Petition No.A-13/2014 and on the other hand, she is delaying the proceedings. It is pointed out that she had earlier filed WP No.2215/2015 and after granting protective orders by this Court on 03/03/2015, the petition was dismissed by this Court on 14/02/2017. Closing evidence *purshis* was filed by the husband on 04/05/2017 after having his examination in chief on 23/10/2013.

4. From the facts and circumstances of this case, though I was of

the view that this petition deserves to be dismissed, I called upon the petitioner/wife to state whether she would cross examine the respondent on a single day as may be directed by this Court and whether she would pay costs of Rs.15,000/- to the respondent/husband and donate Rs.10,000/- for a humane cause to the Ghati Hospital (Government Medical College and Hospital) at Aurangabad. Learned Advocate for the petitioner submits that the petitioner would pay the said amount of costs and also donate the amount as suggested and will not seek an adjournment even for single day for cross examining the respondent.

5. Learned Advocate for the respondent/husband is agreeable.

6. Only on the above statement, this petition is partly allowed. The impugned order dated 12/07/2017 is quashed and set aside and application Exh.117 is partly allowed with the following directions :-

[a] The petitioner shall deposit an amount of Rs.15,000/- before the Principal Judge, Family Court, Nanded on or before 26/06/2018. The husband shall withdraw the said amount without conditions.

[b] The petitioner shall donate an amount of Rs.10,000/- to the Ghati Hospital (Government Medical College and Hospital)

at Aurangabad on or before 26/06/2018 and produce a receipt of such donation before the Family Court, Nanded as a pre-condition for cross examining the respondent/husband.

[c] The respondent/husband would make himself available for cross-examination at 11.00 am on 28/06/2018 only on the point of jurisdiction.

[d] The petitioner would be permitted to cross examine him and conclude the cross examination on 28/06/2018 subject to fulfilling the directions set out in clause “a” and “b”.

[e] Non compliance of any of the above directions would dis-entitle the petitioner from cross examining the respondent.

[f] The learned Principal Judge, Family Court, Nanded shall decide Petition No.A-13/2014, as expeditiously as possible and in any case on or before 31/12/2018.

7. Rule is made partly absolute in the above terms.

(Ravindra V.Ghuge, J.)