

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

917. WRIT PETITION 13723 OF 2018

Jayashree Kapil Chavan	...	Petitioner
Versus		
Kapil Gopichand Chavan	...	Respondents

Mr. K.C.Sant, Advocate for petitioner.

Mr. V.B. Anjanwatikar, Advocate for respondent

Coram : N.M. Jamdar, J.

Date : 11 December 2018.

ORAL ORDER:

1. Heard the learned Counsel for the parties.
2. The petitioner has challenged the order passed by the learned Civil Judge (Senior Division), Chalisgaon dated 30 October 2018, rejecting the application filed by the petitioner for issuance of witness summons.
3. The respondent-husband has filed the proceedings of the restitution of conjugal rights. In the application, the husband has asserted that he was pressurized by the family members of the petitioner-wife and taking advantage of his inexperience, he was forced

to get married in *Arya Samaaj* Temple. In view of this assertion, the petitioner has sought for issuance of a witness summons to the concerned person of Arya Samaj, Sambhaji Nagar, who had performed the wedding. The learned Civil Judge has rejected this application on the ground that there is no dispute about factum of the marriage.

4. As pointed out by the learned Counsel for the petitioner that though the factum of marriage may not have been disputed, what has been disputed is the circumstances in which marriage took place. This aspect of the matter has not been considered by the learned Civil Judge at all while passing the impugned order. In this view of the matter, the application filed by the petitioner-wife should have been allowed.

5. In the circumstances, the impugned order dated 30 October 2018 is quashed and set aside. The application below Exh. 59 in Hindu Marriage Petition No. 30/2018 is allowed.

6. The Writ Petition is disposed of in above terms.

N.M. Jamdar, J.