

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

WRIT PETITION NO. 14052 OF 2018

Sow. Yogini @ Neha w/o Shantanu
Joshi and another

...Petitioners
[Orig. Plaintiffs]

VERSUS

Shantanu s/o Vijay Joshi

...Respondent
[Orig. Defendant]

Mr.R.K.Ashtekar, dvocate for Petitioners

Coram : N.M. Jamdar, J.

Date : 19 December 2018.

Oral Order :

By this petition, the petitioners have challenged the order passed by the learned Civil Judge, Senior Division, Jalna setting aside the 'no-cross' order passed against the defendant.

2. The impugned order is passed in a matrimonial proceeding pending between the parties. The suit is filed for maintenance by the petitioners-wife and child against the respondent-

husband.

3. Learned counsel for the petitioners made a grievance that the respondent is prolonging the suit and indulgence ought not to have been granted to set aside the 'no-cross' order.

4. Considering the fact that the petitioners have approached this Court under powers of superintendence and considering that what is pending is matrimonial proceeding, the discretion used by the learned Civil Judge to set aside the no-cross order cannot be disturbed. However, note must be taken of the grievance made by the petitioners that the suit is of the year 2012. If, the learned Civil Judge comes to the conclusion that the respondent-husband is delaying the proceedings henceforth, the learned Civil Judge will be entitled to take strict view of the matter. If there are any arrears of maintenance to be paid by the respondent-husband, the learned Civil Judge will ensure that no prejudice is caused to the petitioners. Since the suit is of the year 2012 and is older than five years and that the petitioners have claimed maintenance, the Civil Judge will give priority for disposal of the suit.

5. Writ Petition is accordingly disposed of.

N.M.Jamdar, J.