

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3664 OF 2016

Nikita Chandrakant Dalvi	...Petitioner
vs.	
Chandrakant Sambhaji Dalvi	...Respondent

None for the Petitioner
Ms. Snehal Shirsat, for the Respondent.

CORAM : M. S. SONAK, J.

DATE : NOVEMBER 28, 2018

ORAL JUDGMENT

. Taking into consideration the facts and circumstances involved in this matter, even though the Petitioner and her advocate are not present, rule is issued and the same is made returnable forthwith with the consent of the learned counsel for the Respondent.

2. The challenge in this Petition is to the order dated 10th December, 2015 made by the trial Judge which reads as follows :

“The Respondent is present. WS not filed with this Application. Even today the Respondent is not ready with her WS. She again wants date. It is only delaying. Hence, rejected.”

3. From the perusal of the aforesaid order dated 10th December, 2015 it is clear that the learned trial Judge has not at all appreciated the reasons set out in the application made by the Petitioner in context of delay in filing the written statement. Instead of passing such order, some costs should have always be imposed upon the Petitioner while allowing her yet another opportunity to file written statement.

4. Taking into consideration the causes shown in the application dated 9th October, 2015 and in the substantive interest, the impugned order dated 10th December, 2015 is set aside.

5. The Petitioner is granted some additional time to file written statement. However, if the Petitioner fails to file written statement in the additional time, the learned trial Court will be at liberty to proceed with the matter without grant of any further opportunity to the Petitioner.

6. Since neither the Petitioner nor her advocate are present in the Court, the parties are directed to remain present before the trial Court on 8th January, 2019.

7. The learned trial Judge will grant the Petitioner at least four weeks time to file her written statement and if the written

statement is filed within four weeks, accept the same.

8. The Respondent to place the authenticated copy of this order before the learned trial Judge.

9. All concerned to act on the basis of authenticated copy of this order.

10. The rule is made absolute to the aforesaid terms.

11. There shall be no order as to the cost.

(M. S. SONAK, J.)