

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.13257 OF 2016

Mrs. Shinie B. Nair	...	Petitioner
Versus		
State of Maharashtra		
And Another	...	Respondents

.....

Mr. Anirban Tripathy for the Petitioner.
Ms. Bharati Hire I/b Aashish Suryavanshi for Respondent No.2.
Mr. P.P. Pujari, AGP for the State.

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CORAM : M.S. SONAK, J.

DATE : 22 DECEMBER 2018

P. C. :

. Heard learned Counsel for the parties.

2 The challenge in this petition is to an order dated 12 August 2015 made by learned Trial Judge, dismissing the Petitioner's application to decide whether any fraud has been practiced by the Respondent and if so found, to dismiss the Respondent's Marriage Petition No.780 of 2013 on such ground.

3 From the perusal of the impugned order, it is clear that the learned Trial Judge has not shut out the contentions in relation to any alleged fraud. All that the learned Trial Judge had said that such an application need not be considered at this stage, particularly, since there is a time bound direction for disposal of the marriage petition. What this means is

that it is undoubtedly open to the Petitioner to contend that there has been some fraud and that if such contention is taken, the same will ultimately be taken into consideration whilst finally disposing of the marriage petition.

4 There is no error in the impugned order passed by the learned Trial Judge. Accordingly, there is no case made out to interfere with an impugned order. However, it is clarified that this court has not gone into issue as to whether there was any fraud or not. Further, it is clarified that the contention of the Petitioner in this regard may not be taken as foreclosed by the impugned order and such contention may be considered by the learned Trial Judge on its own merits and in accordance with law at the stage of disposal of the marriage petition finally.

5 With these observations, this petition is disposed of. Both parties are directed to co-operate with the learned Trial Judge, so that the marriage petition can be disposed of expeditiously.

(M.S. SONAK, J.)