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

WRIT PETITION NO. 7365 OF 2018

Anahita Kaikobad Dastoor Nee Anahita
Anil Katiyar .. Petitioner
Vs.
The State of Maharashtra & Anr. .. Respondents

Ms. Monica Parikh a/w. Mr. Ravindra Bhatt for the Petitioner.
Ms. Sushmita Sherigar h/f Ms. Manjula Rao for Respondent No.2.
Ms. G. R. Golatkar, AGP for Respondent No.1-State.

CORAM : K. K. SONAWANE, J.
DATE : 2nd AUGUST, 2018.

P. C. :

1. Heard learned Counsel for petitioner-wife and learned Counsel for respondent No.2-husband.
2. The present writ petition is directed against impugned order passed by the learned Family Court below Exhibit 1 in Petition No. A-602 of 2018 dated 02.05.2018. It has been contended that the petitioner-wife initiated divorce proceeding against respondent-husband on the ground of cruelty. Pending the divorce petition, there were endeavour to settle the marital discord amicably between the spouses. Accordingly, mutual consent terms were prepared before the concerned Mediator. The consent terms were placed before the Family Court for further process. Meanwhile, parties to the proceeding filed, an application at Exhibit 15 to waive the stipulated period of six months required for decree of divorce by mutual

consent. The learned Trial court was intending to postpone the hearing of the petition till June, 2018. But, the petitioner was not inclined for the same and insisted hearing of the petition forthwith. The learned Trial Judge found reluctant to nod in favour of the petitioner. Therefore, the petitioner moved an application to get the matter transfer to Family Court No.3 for further process. Accordingly, the matter came to be transmitted to the Court No.3 at the behest of petitioner. The date of appearance before Court No.3 was given as 02.05.2018.

3. Accordingly, the petitioner appeared before the Court No.3 and insisted for urgent hearing. Unfortunately, the respondent failed to appear on that day before the Court No.3. In view of nature of subject matter and absence of other side, the Presiding Officer of the Family Court No.3 adjourned the matter and directed to list the same on 02.11.2018.

4. Being dissatisfied with with frequent adjournments of the matter, the petitioner preferred the present Writ Petition seeking early dates to get the relief of divorce on mutual consent.

5. Having considered the arguments advanced on behalf of both sides, it reveals that the petitioner approached to this Court seeking exercise of extraordinary jurisdiction of this Court on flimsy ground of early hearing of the matter. The practice to rush to this Court time and again on flimsy ground should not be allowed to be promoted and developed. The reason for which the petitioner ventured to consume the precious time of this Court appears not of such importance and significant one. It is true that

the petitioner has an anxiety to get relieved from the matrimonial dispute at the earliest. But, the mode and manner to get escape from litigation, by filing present writ petition is not appreciable and required to be deprecated and disapproved one.

6. Be that as may the present dispute between the spouses, is pertains to divorce by mutual consent. In such circumstances, it is imperative for the learned Trial Court to give top priority to the present matter for its speedy decision. There is no impediment to issue direction to the concerned Trial Judge for expeditious hearing of the present matter. Accordingly, the concerned Trial Court is hereby directed to list the matter of the petitioner on 20.08.2018 for further process. The petitioner and respondent both shall cause their appearance on 20.08.2018 before the Trial Court No.3 and shall co-operate to the concerned Court for progress into the matter. It is further stipulated that, the learned Trial Judge shall take endeavour for expeditious hearing of the matter and shall adjudicate the dispute of divorce between the spouses within ambit of law at the earliest.

7. With these observations, the writ petition stands disposed of. No order as to costs.

Arjun
Machhindra
Kadam

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by Arjun
Machhindra
Kadam
Date:
2018.08.07
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[K. K. SONAWANE, J.]