

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

WRIT PETITION NO. 7959 OF 2018

Vedant Vijay Jatia	... Petitioner
Versus	
Swati Vedant Jatia	... Respondent

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Ms. Preeti Gada i/b Vikrant D. Shetty for Petitioner.
Ms. Taubon Irani a/w Disha Shetty for Respondent.

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CORAM : K. K. SONAWANE, J.

DATE : 3rd AUGUST, 2018.

P. C.:

1. Heard learned Counsel for the petitioner and respondent.
2. Rule. Rule made returnable forthwith. With consent of both the parties, the matter is taken up for final hearing on merit.
3. The present writ petition is directed against the impugned order passed by the Family Court, Bandra, Mumbai on application below Exhibit-115 in Petition No.D-44 of 2013. The petitioner filed application Exhibit-115 with a prayer to club both the Custody and Divorce petitions for simultaneous hearing on merit and adjudicate both the petitions by common evidence. It is also

contended that both the proceedings are based on the similar facts and circumstances and the common evidence in both the proceedings would subserve the purpose of speedy decision instead of two separate trial. There would be overlapping of evidence, which would result in waste of time. Therefore, the petitioner requested to allow both the proceedings clubbed or consolidated for simultaneous hearing and its adjudication on merit on the basis of common evidence.

4. The learned trial Judge considered the attending circumstances on record. There were earlier directions that the proceeding be heard expeditiously and shall conclude it within a period of one year. Admittedly, the present matter is time bound matter by the Hon'ble High Court and the parties were directed to cooperate to the trial Court for its adjudication on merit at the earliest. In such backdrop, in case, the present proceeding is tagged with the earlier proceeding, there may be an possibility of delay in trial, which would create hindrances for trial Court to obey the order passed by the Hon'ble High Court.

5. Taking into consideration the facts and circumstances on record and the reasons mentioned in the application, I do not find any error or illegality in the impugned order passed by the Trial Court. It is to be noted that it is the discretion of the trial Court to take appropriate steps for just and proper adjudication of the dispute at the earliest. The discretions should be exercised judicially in the interest of justice and not on the whims and caprice of the parties to the proceeding. Moreover, the parties cannot insist for clubbing both the matters together for common evidence and its decision on merit.

6. In such circumstances, there is no substance in the writ petition. The order passed by the Family Court is just, proper and reasonable, the impugned order needs no interference. In the result, the writ petition stands dismissed. Rule discharged. No order as to costs.

(K. K. SONAWANE, J.)

Shridhar
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