

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (ST) NO. 26488 OF 2018

Vaibhav R. Bansode

.. Petitioner

vs.

Mrs. Anuja V. Bansode

.. Respondent

Mr. Sarang S. Aradhya for the Petitioner.

Mr. Prasad P. Kulkarni for the Respondent

CORAM : M. S. SONAK, J.

DATE : 28 NOVEMBER 2018.

P.C. :-

1] Heard Mr. Sarang Aradhya for the petitioner and Mr. Prasad Kulkarni for the respondent.

2] The challenge in this petition is to the order below Exhibit-49 dated 18th July 2018, by which, the learned Trial Judge has permitted the respondent / original plaintiff to amend the plaint and seek *inter alia* relief of compensation.

3] Mr. Aradhya, the learned counsel for the petitioner, submits that the amendment changes the nature of the suit, since the original suit seeks the relief of divorce. Without prejudice, he submits that the relief of compensation, in any case, is barred by limitation or even otherwise not maintainable. He submits that since

these aspects have not been considered, the impugned order warrants interference.

4] Mr. Kulkarni, the learned counsel for the respondent, points out that this was a pre-trial amendment and there is absolutely no error in the impugned order.

5] Upon due consideration of the rival contentions and perusal of the material on record, there is really no case is made out to warrant any interference with the impugned order.

6] This is not at all any case of change of fundamental change in the structure of the suit. The trial is yet to commence. The circumstance that the issues have been framed does not mean that the trial has commenced. The issue as to whether the claim for compensation is valid or maintainable are really issues on merits, which the petitioner can always contest by filing a written statement. All defences of the petitioner can be kept open and are in fact directed to be kept open. However, there is no case made out to interfere with the impugned order.

7] Accordingly, this petition is dismissed. There shall however, be no order as to costs.

8] The petitioner is however granted liberty to file additional written statement within four weeks from the date of service of amended copy of the plaint.

(M. S. SONAK, J.)