

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 922 OF 2017

Mrs.Saundarya B. Marthandan **Petitioner**
VERSUS
Bharatkumar G. Marthdan **Respondent**

Mr.Ganesh More for the Petitioner.

None for the Respondent.

CORAM : R.D. DHANUKA, J.
DATE : 17th SEPTEMBER, 2018

P.C.

By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 18th November,2016 passed by the learned 2nd Joint Civil Judge,Senior Division, Pune below Ex.11 rejecting the application filed by the petitioner for setting aside 'no say order' as there was delay in filing written statement filed by the petitioner.

2. Learned counsel appearing for the petitioner states that the respondent had appeared before this court on 9th March,2017 and had assured that he would clear the arrears of maintenance on or before 13th April,2017 and will also regularly attend this court in the above petition. However, he has neither cleared the arrears of the maintenance nor is present before this court.

3. I have perused the grounds raised by the petitioner in this petition and also the application filed by the petitioner for setting aside

the application of the 'no say order'. For the reasons recorded in the writ petition, the petitioner has made out a case for quashing and setting aside the order dated 18th November, 2016 on the condition that the petitioner would file written statement within eight weeks from today.

4. The impugned order dated 18th November, 2016 passed by the learned 2nd Joint Civil Judge, Senior Division, Pune is set aside. Application below Ex.11 filed by the petitioner is allowed.

5. The petitioner would be entitled to file written statement within eight weeks from today and shall serve a copy of the written statement upon the respondent within one week from the date of filing such written statement.

6. If any such written statement is filed within the time prescribed, the learned trial judge shall take the said written statement on record and shall proceed the same on its own merits.

7. The respondent is directed to clear the arrears of maintenance to the petitioner within four weeks from the date of communication of this order without fail.

8. If there is any non-compliance of the order passed by this court by the respondent, the learned trial judge shall initiate action against the respondent for non compliance of the order passed by this court.

9. Writ petition is allowed in the aforesaid terms. No order as to

costs.

10. The parties as well as the trial court to act on the authenticated copy of this order.

[R.D. DHANUKA, J.]