

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 13410 OF 2018

Pranav M. Salvi .. Petitioner
vs.
Komal P. Salvi .. Respondent

Ms Helen Miranda a/w. Ms Disha Shetty for the Petitioner.
Ms Ghazala Z. Khan for the Respondent.

CORAM : M. S. SONAK, J.
DATE : 28 NOVEMBER 2018.

P.C. :-

1] Heard Ms Helen Miranda, the learned counsel for the petitioner and Ms Ghazala Khan, the learned counsel for the respondent.

2] The challenge in this petition is to the order dated 5th October 2018, by which, the learned Trial Judge has declined leave for clubbing of three matters involving the same parties.

3] Ms Miranda, the learned counsel for the petitioner, submits that all the three petitions are between the same parties. She points out that the petitioner -husband has applied for a divorce and as a counter-blast the respondent-wife has applied for restitution and custody of the minor children. She submits that the proceedings in

the petition for restitution are being fast-tracked and the proceedings for divorce are being delayed. She submits that it will also be in the interests of children if all the matters are clubbed and taken together. She points out that in previous round of litigation specific liberty was granted to the petitioner to apply to the learned Family Court for clubbing all the three matters.

4] Ms Ghazala Khan, the learned counsel for the respondent, defends the impugned order on the basis of reasoning therein.

5] Having considered the rival submissions, it is difficult to interfere with a discretionary order made by the learned Family Court. In the impugned order, it is stated that all the three proceedings though between the same parties are at different stage. The learned Family Court has stated that it will be difficult to decide the three matters by common judgment. There is nothing perverse in the reasoning adopted by the learned Family Court in the matter of exercise of discretion as to whether the three matters ought to be clubbed or not.

6] That apart, although the parties are common, it is not as if the very same issues arise in the three matters. The issues which will arise in the three matters are different.

7] Accordingly, there is no jurisdictional error involved and therefore, no case is made out to warrant interference with the impugned order. The petition is liable to be dismissed and is hereby dismissed. There shall however be no order as to costs.

8] Ms Miranda, the learned counsel for the petitioner, points out that there are several applications pending before the learned Family Court in relation to access to the minor children. She points out that it is for this reason that the same relief is applied for in prayer clause (c) for expeditious disposal of such applications.

9] Although, the petition, insofar as it challenges the order dated 5th October 2018, is dismissed. If at all, any applications in relation to access of the children are pending, then, such applications are indeed required to be disposed of as expeditiously as possible. Accordingly, the learned Family Court is requested to dispose of such applications expeditiously.

10] It is however made very clear that on account of all these applications, final hearing in the main petition need not be delayed. The final hearing should go on as per schedule. This is more so because there are separate petitions in relation to custody are pending in the Family Court.

(M. S. SONAK, J.)