

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL WRIT PETITION NO.1175 OF 2017

[Gajanan s/o Ramchandra Mahakalkar and one .vs. Sou. Archana Vivek Mahakalkar and others]

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Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

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Shri S.S. Joshi, Advocate for petitioners,
Shri A.A. Dhawas, Advocate for respondent nos.1 and 2,
Shri S.N. Mahajan, Advocate for respondent no.3.
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CORAM : P.N. DESHMUKH AND
MRS. SWAPNA JOSHI, JJ.

DATED : SEPTEMBER 03, 2018.

Learned counsel Shri S.N. Mahajan appears for respondent no.3 and seeks time to file Vakalatnama and obtain instructions to file affidavit-in-reply.

Learned counsel for petitioners orally seeks leave to delete respondent no.4 stating that he is not necessary party to the petition.

In view of statement made, the petitioners are allowed to delete respondent no.4 forthwith.

Learned counsel for respondent nos.1 and 2 makes a statement that the said respondents do not want to file affidavit-in-reply.

This petition is by in-laws of respondent no.1 and who accordingly are parents of respondent no.3-husband of respondent no.1. Prayer clause in the petition is to issue suitable writ, order or directions allowing the petitioners to argue Criminal Appeal No.25/2015 pending on the file of learned District and Sessions Judge, Warora without hearing or allowing absence of respondent no.3. The husband is said to be continuously absent. The petitioners are senior citizens. In this petition the petitioners seek

directions as aforesaid, wherein the orders passed in Cri. M.A. No.4/2006 by learned Judicial Magistrate, First Class, Warora are challenged.

Till today, respondent no.3 was not served. Today, learned counsel Shri Mahajan appears for respondent no.3 and makes a statement upon instructions that said respondent shall appear before District and Sessions Judge, Warora in Criminal Appeal No.25/2015 which is said to be listed for final hearing on 22nd October, 2018.

In view of statement as aforesaid and the limited prayers sought in the present petition, we do not find any reason to keep the petition pending and as such allow the same as per order below.

Criminal Writ Petition is partly allowed. In view of statement made on behalf of respondent no.3 by the learned counsel as aforesaid, respondent no.3 shall remain present before the District and Sessions Judge, Warora where Criminal Appeal No.25/2015 is pending and shall proceed with the same proceedings without fail. Needless to say that as the criminal appeal is pending for the considerable time, the learned appellate court, where the criminal appeal is pending, shall dispose of the same expeditiously preferably within three months from the date of receipt of this order.

Criminal Writ Petition stands disposed of in above terms.

JUDGE

JUDGE