

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9996 OF 2019

RAHUL SHANKARRAO WADHAVE
VERSUS
ARCHANA RAHUL WADHAVE

Mr.R.S.Wadhave, Party in person as a petitioner.
Mrs.A.R.Wadhave, Party in person as a respondent.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 18/09/2019

PER COURT :

1. On 09/08/2019, this Court had passed the following order :-

"1. The petitioner, in person, has been granted permission by the committee of learned Registrar (J) of this Court vide report dated 16.4.2019, to conduct this petition in person.

2. I have heard the petitioner. I have perused his application Exhibit 57 seeking issuance of witness summons against seven persons. By the impugned order dated 23.11.2018, summons have been issued only to the extent of witness Nos.2 and 3, set out in Exhibit 57.

3. I find that the learned Family Court has failed to consider the specific contentions of the petitioner, especially with regard to the purported conduct of Advocate Nishigandha Chobey, who is

alleged to have represented the petitioner in the Divorce Petition, though, as he claims, she did not have a vakilpatra issued by the petitioner.

4. *Issue notice to the respondent, returnable on 18.9.2019.*

5. *Until then, the impugned order dated 23.11.2018 shall stand stayed and the case No. A-407 of 2015 shall be adjourned.”*

2. Today, this petition was at Sr.No.970. Since it was in “due admissions category after notice” and it was already 5.45 p.m. that the parties in person made a request that this matter may be considered as both of them are present in the Court.

3. The Committee of the learned Registrar (Administration) and learned Registrar (Judicial) has issued an authorization to the petitioner husband as well as the respondent/wife to appear in person before this Court.

4. I have considered the submissions of the learned Advocates for the respective sides and have gone through the petition paper book.

5. Case No.A-407/2015 filed by the respondent/wife is pending

before the learned Family Court at Aurangabad wherein the wife has sought a divorce from the husband. On 04/01/2018, the petitioner / husband moved an application before the Family Court making certain allegations against a lady Advocate Smt.Nishigandha Choube. It was contended that she was advising the wife and though she had not officially entered her *vakilpatra* in the proceedings before the Family Court, she was actively involved and was supporting the wife.

6. Vide the said application Exh.57, the petitioner/husband has sought leave to examine Advocate Smt.Choube, Shri Ravindra Moodlod, Tahsildar Aurangabad, Smt.Sathe, Protection Officer, Mahila va Balvikas Vibhag, Aurangabad, the Principal of the Vivekanand College, Aurangabad, the Social Welfare Officer, Scholarship Division, Aurangabad, the Executive Engineer, Minor Irrigation Department, Aurangabad and Shri Shahu Aadhav, Aurangabad and has prayed for issuance of summons to these persons for recording their statements.

7. The respondent/wife in person submits that the issue before the Family Court is with regard to her divorce petition. She does not desire to co-habit with the husband. It is purely a matter between

the 2 persons and the Court has to assess as to whether there are sufficient reasons to grant a divorce. None of the persons sought to be examined are connected with the litigation between the parties.

8. I find from Exh.56 that the petitioner has made certain allegations against Adv.Smt.Chobe. It is also contended that Shri Moodlod, Tahsildar needs to be produced as a witness to testify regarding the marital discord report, since the wife had met the said Officer in his official capacity. The wife has deposed before the Family Court that her scholarship money was snatched by the husband for which the Principal of the Vivekanand College need not be examined. Details about the scholarship extended by the State of Maharashtra are a matter of record. The Social Welfare Officer need not be examined. The father of the wife, Shri Shahu Aadhav, works in the Minor Irrigation Department, for which the Executive Engineer of the Minor Irrigation Department need not be examined.

9. The record reveals that the personal differences between the parties and the alleged illtreatment suffered by the wife, has been the cause of the filing of the petition for divorce. If the petitioner has any grievance against Advocate Smt.Chobe, he would be at liberty to avail of a remedy as would be permissible in Law. I do not find any

reason to permit examination of Advocate Smt.Chobe and the Tahsildar in the matter of this nature. Merely because the wife visited the Protection Officer, would not mean that the Protection Officer acting in her official capacity is required to be examined. No specific reasons are assigned, which would indicate that the Protection Officer has played a role which would have a direct impact on the pending divorce petition.

10. In so far as the amount of scholarship is concerned, that would have no bearing on the divorce petition and as such, the Principal of the College or the Social Welfare Officer are not required to be examined.

11. In so far as the father of the wife, Shri Adhav is concerned, the grievance of the petitioner is that the wife has not disclosed the income of her father in her testimony. There is nothing mentioned in application Exh.57 as to what is the nexus between the salary earning of Shri Aadhav with the pending divorce petition.

12. Considering the above, I do not find that the order passed by the Trial Court dated 23/11/2018, impugned in this petition, could be branded as being perverse or erroneous or is likely to cause grave

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injustice to the petitioner. This petition, being devoid of merit, is therefore dismissed.

(Ravindra V.Ghuge, J.)