

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

919 WRIT PETITION NO. 8338 OF 2019
ANIKET ASHOKRAO JOGDAND
VERSUS
PRIYANKA ANIKET JOGDAND

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Advocate for Petitioner : Shri Chavan Sudhir K.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: July 16, 2019

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PER COURT :-

1. The petitioner is aggrieved by the impugned order dated 22.4.2019, passed by the trial Court, vide which, application Exhibit 20, filed by the applicant / wife in HMP No. 207 of 2017, has been allowed. The contention that this petitioner / husband has performed a second marriage during the subsistence of the first and has a child, is sought to be brought on record by the proposed amendment.

2. The learned Advocate for the petitioner has strenuously criticized the impugned order. He draws my attention to the pleadings of the wife before the trial Court under paragraph No.8 that during the entire time, that the petitioner lived with the wife, the marriage could not be consummated. With these pleading, being one of the grounds for seeking divorce, she cannot introduce a pleading that this petitioner has now married a lady by name Aarati Pate, who has started using the surname of the petitioner. He submits that a diagonally opposite stand has been taken by the original applicant before the trial Court.

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3. I find that the submissions of the petitioner are not well placed. The applicant appears to have set out her side of the story in her plaint by contending that the petitioner could not consummate the marriage. However, if she has gathered knowledge and information about the subsequent events, by which, the story of the petitioner getting remarried, she would indeed find it appropriate to bring the said aspect on record as an additional ground. It would be open to the petitioner to submit his written statement in response to the amended portion. It, however, cannot be said that a completely different case is being made out by the applicant / wife since she only desires to bring on record the subsequent events. It is well settled that the trial Court or for that reason any Court is not supposed to consider the merits of the proposed amendment.

4. In view of the above, this petition being devoid of merits, stands dismissed.

(RAVINDRA V. GHUGE, J.)

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