

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 3382 OF 2020

GAURAVSINGH JAWAHARSINGH RATHOR
VERSUS
SHILPI GAURAVSINGH RATHOR

...
Advocate for the Petitioner : Shri S. S. Gangakhedkar
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CORAM : RAVINDRA V. GHUGE, J.

DATED : 4th MARCH, 2020
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PER COURT :

1. The Petitioner is the husband of the Respondent. He has received the judgment and decree dated 07/06/2018, which was delivered *ex-parte* by the learned Principal Judge, Family Court, Nanded in Petition No. A-128/2017. The Respondent is a resident of c/o Chandrabhan Ramratan Rathor Registrar, District Court, Lalitpur (Uttar Pradesh), who has moved an application dated 04/08/2018, which is registered as Misc. Civil Application (RJE) No. 6/2018 for recalling the *exparte* decree and for permitting the wife to file her written statement and contest the matter. The said proceedings are pending at Nanded.

2. The Petitioner moved an application Exhibit 17 in R.D. No. 11/2019 praying to the learned Family Court, Nanded to refer the matter for mediation. A say was filed by the wife contending that she is willing to cohabit with the husband. However, the husband is said to be imposing new conditions on her which indicates that he is not interested in saving the marriage. The Trial Court has, therefore, passed an order dated 07/09/2019, impugned in this petition, by which, the parties are granted liberty to resort to mediation in relation to the proceedings under Section 125 of the Code of Criminal Procedure, Domestic Violence Act and Section 498-A of the Indian Penal Code.

3. Grievance of the Petitioner is that, the executing Court should have considered application Exhibit 17 under Section 89 of the Code of Civil Procedure.

4. I find that Exhibit 17 was a vague application tendered by the Petitioner husband. Bereft of details

and mentioning of Section 89, the executing Court probably was impressed that the parties desire to approach for mediation.

5. Considering the above, I do not find that this petition needs to be entertained and the Respondent wife be made to suffer the rigors of litigation being a resident of District Lalitpur. The ends of justice would be met by permitting the Petitioner to file an appropriate application and by mentioning Section 89 of the Code of Civil Procedure so as to seek orders for referring the pending disputes between the parties to mediation. Needless to state, if such an application is filed, the executing Court would consider the contentions of all the parties and pass an appropriate reasoned order.

6. This petition is, therefore, disposed off.

(RAVINDRA V. GHUGE, J.)

shp/-