

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO.739/2016

Sau. Varsha Vinod Kukade,
@ Varsha Mahadeo Bharsakale,
Aged 28 years, Occ: Service,
C/o Tripalbhai Birande,
R/o Haripur Road, Nandrekar Plot,
Near Zadatla Maruti Temple,
Sangali, Tq. & Dist. Sangali.

.... **PETITIONER**
(Ori. Respondent)

// **VERSUS** //

Vinod Suryabhan Kukade,
Aged 31 years, Occ: Labour,
R/o Ugwa, Tq. & Dist. Akola.

.... **RESPONDENT**
(Ori. Applicant)

Mr. V. R. Bhise, counsel for the petitioner.

CORAM : AVINASH G. GHAROTE, J.

DATED : 14/12/2020

ORAL JUDGMENT :

1. Heard Mr. Bhise, learned counsel for the petitioner, who submits, that he has informed Mr. Mohta, learned counsel for the respondent, who has asked him to inform the Court to pass appropriate orders. The present petition challenges the order dated 05/01/2016 passed by the learned Civil Judge Senior Division, Akola at Exh.10 in Regular Darkhast No.158 of 2015, whereby the Trial Court has directed the attachment of salary of Rs. 5000/- of the petitioner. Though the impugned order does not indicate so, learned counsel for

the petitioner submits that the order has been construed to mean attachment of the amount of Rs.5000/- per month from the salary of the petitioner. It is material to note that, the impugned order came to be passed on the application filed by the respondent husband, complaining that the petitioner was avoiding to attend the Court. It is further material to note that the Darkhast was in respect of enforcement of a decree passed under the provisions of the Hindu Marriage Act, dated 25/08/2015 for Restitution of Conjugal Rights in HMP No.129 of 2014, instituted by the respondent against the petitioner and therefore seeking her appearance. There clearly appears to be no legal basis for the passing of the impugned order. No reasons are given, as is apparent, from the plain reading of the impugned order. Same is therefore, clearly unsustainable in law and is hereby quashed and set aside.

2. The application filed by the respondent at Exh.10, is also rejected. The respondent to take appropriate steps as otherwise permissible to him in law for the enforcement of the judgment for Restitution of Conjugal Rights. Petition is accordingly allowed.

Rule is made absolute in the above terms. No costs.

(AVINASH G. GHAROTE, J)