

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

Writ Petition 1185 of 2020

Aboleer Pitale Vs. Harsha Pitale

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

Court's or Judge's orders

Mrs. K.P. Dharashivkar, Advocate for the petitioner

CORAM : MANISH PITALE, J.

DATED : MARCH 02, 2020

By this writ petition, the petitioner has challenged order dated 18/12/2019, passed by the Court of Principal Judge, Family Court, Nagpur, whereby an application filed under Section 24 of the Hindu Marriage Act, 1955, seeking maintenance *pendent lite* has been rejected.

2. The petitioner has filed an application under Section 9 of the aforesaid Act for the restitution of conjugal rights before the Court below on 15/05/2018. The respondent filed his detailed reply to the said application on 13/06/2019, stating, *inter-alia*, that he was ready to cohabit with the petitioner and why a decree of restitution of conjugal rights may be passed in the matter.

2. Before the aforesaid reply was filed to the main application for restitution of conjugal rights on behalf of the respondent, an application under Section 24 of the aforesaid Act was filed by the petitioner for grant of maintenance *pendent lite*. The Court below by the impugned order has rejected the said application. While doing so, the Court below has observed that if interim maintenance is granted there may be possibility that matter may not be settled between the parties.

3. To the extent of the aforesaid observation made by the Court below, it appears that the application filed by the petitioner has been rejected with an observation that may not be necessarily germane to the issue raised on behalf of the petitioner.

4. But, while exercising writ jurisdiction, this Court has taken note of the contents of the application for restitution of conjugal rights and detailed reply filed by the respondent in the present case. It appears that looking to the contents of the application and the reply, the Court below can decide the main application i.e. the application for restitution of conjugal rights itself expeditiously, particularly in the light of specific statements made on behalf of the respondent in his reply. The Court below is justified in observing that both the parties appear to be desirous to stay together, which is the main purpose of the application filed by

the petitioner under Section 9 of the aforesaid Act.

5. In view of above, this Court refuses to interfere with the impugned order and instead the Court below is directed to take up the application for restitution of conjugal rights filed by the petitioner under Section 9 of the aforesaid Act, itself for consideration and disposal immediately. Accordingly, the Court below shall decide the aforesaid application for restitution of conjugal rights filed by the petitioner within six weeks from today. The parties shall co-operate with the Court below for disposal of the said application within the said period of time.

6. The writ petition is disposed of with above observations.

JUDGE