

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

WRIT PETITION NO.7638 OF 2019

(Smt. Reema wd/o Shyamuji Lokhande Vs. Smt. Sonali wd/o Sunil Lokhande and
another)

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

Court's or Judge's orders.

Shri C.V. Kale, Advocate for Petitioner.
Shri S.G. Malode, Advocate for Respondent No.1.

CORAM: RAVINDRA V. GHUGE, J.

DATE: 8th JANUARY, 2020.

1] The petitioner original respondents in Petition No.C-79/2014 pending before the learned Family Court No.2 at Nagpur, are aggrieved by the 'no cross' order dated 10.05.2018 and by the order dated 21.08.2019 by which the trial court has rejected Exh.55 seeking recalling of the no-cross order.

2] I have heard the learned Advocates for the respective sides for quite some time. A short issue is raised for the consideration of this Court.

3] The proceedings before the Family Court are between respondent no.1, who is the daughter-in-law of petitioner no.1 and sister-in-law of petitioner nos.2 and 3. She lost her husband Sunil. A girl child born out of the wedlock, who is about 14 years of age, is residing with her. Both of them are presently residing separately from the respondents.

4] In the proceedings before the trial court, respondent no.1 led oral evidence on 08.02.2018. No-cross order was passed on 10.05.2018. Application Exh.55 was filed by the petitioners on 10.01.2019 praying that the no cross order be recalled. By the impugned order dated 21.08.2019, the trial court has rejected Exh.55 since, on the day on which the order was passed, neither the original respondents nor their Advocate was present and the Court felt that even if Exh.55 was allowed, there was nobody present to commence the cross examination of the original petitioner no.1.

5] I find from the submissions of the learned Advocates and the record available that these petitioners would lose a valuable right of cross examining the original petitioner no.1. However, the rigors of litigation being suffered by respondent no.1 widow, need to be compensated since almost one year and eleven months have lapsed pursuant to her examination-in-chief.

6] Considering the above, the petitioners shall deposit an amount of Rs.15,000/- before the trial court, on or before 16.01.2020 as the matter is already posted on the said date. In the event the amount is deposited, the original petitioner no.1 widow Smt. Sonali shall withdraw the said amount as costs without conditions. She would remain present on 16.01.2020 so as to be cross examined by the Advocate for the original respondents. In the event the amount is not deposited or after the said amount is deposited if no cross examination occurs on 16.01.2020

owing to the conduct of the original respondents, the trial court would close the cross examination after 16.01.2020.

7] At the request of the parties, since the proceedings are six years old and the original petitioner submits that she does not desire to examine any witnesses, the learned Family Court would endeavour to decide Petition No.C-79/2014 as expeditiously as possible and preferably on or before 31.07.2020.

(Ravindra V. Ghuge, J.)