

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1821 OF 2014

SHIVAJI PANDURANG AWARE
VERSUS
MIRABAI SHIVAJI AWARE AND OTHERS

...
Advocate for Petitioners : Mr. Pankaj A. Bharat
Advocate for Respondent no.1 : Mr. Naseem R. Shaikh
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 22-11-2021

PER COURT :-

This petition impugns order dated 28-01-2014 passed below application at Exhibit-57 and order passed below application Exhibit-62 in Regular Civil Suit No. 301 of 2012.

2. By rejecting application at Exhibit-57, the trial court has rejected the prayer of the petitioner to file additional written statement and by rejecting application below Exhibit-62, the trial court has rejected the prayer of the petitioner to carry out amendment in the application filed below Exhibit-57 and the additional written statement filed alongwith application. These orders are impugned in the present petition.

3. Respondent no.1 - wife filed Regular Civil Suit No. 301 of 2012 under Section 18 of the Hindu Marriage Act, 1955, claiming maintenance @ Rs.5000/- per month from the petitioner-husband. After framing the issues in the said suit, the petitioner husband filed application at Exhibit-62 seeking permission to place on record additional written statement, which is rejected by the trial court.

4. The trial court has rightly rejected the application Exhibit-62 by giving cogent reasons. The trial court has observed that the application does not disclose as to which paragraphs are to be amended and which are to be incorporated in the written statement. The trial court has further observed that since plaintiff-wife has not amended her plaint, there is no question of permitting the defendant-husband to amend his written statement and/or to file additional written statement. No illegality or perversity is found in the order passed by the trial court.

5. The suit for maintenance is filed by the wife in the year 2012 and the same is still pending for adjudication. On a query by this court, the learned Advocate for the respondent-wife submits that so far no interim maintenance is awarded to the wife. The application filed by the husband appears to have been filed to prolong the matter. The petitioner-husband is under legal obligation to pay maintenance to the respondent-wife.

6. For the aforesaid reasons, there is no merit in the challenge raised by the petitioner in the present petition. Writ petition is therefore dismissed.

Taking into consideration the fact that suit for maintenance filed by wife is pending since year 2012, the trial court to expedite the suit and decide the same within a period of three months from the date of receipt of this order.

(NITIN B. SURYAWANSHI)
JUDGE

rrd