

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

MISC. CIVIL APPLICATION NO. 30/2021

Mrs. Pooja w/o Pravin Thool,
aged about 24 years, Occ. Housewife,
r/o c/o Anandrao Randhir,
Near Buddha Vihar, Station Fail,
Wardha, Tq. & Dist. Wardha.

.....APPLICANT

...V E R S U S...

Mr. Pravin s/o Chanduji Thool,
Aged 32 years, Occ. Service,
R/o Chavhan Layout, Ralegaon,
Tq. Ralegaon, Dist. Yavatmal.

...NON APPLICANT

Mr. Mahesh Rai, Advocate for applicant.
None for non applicant.

CORAM:- V. M. DESHPANDE, J.
DATED :- 21.10.2021.

ORAL JUDGMENT

1. Rule. Rule is made returnable forthwith. Taken up for final hearing at admission stage.

2. Heard Mr.Rai, learned counsel for applicant. Mr.Rathod, learned counsel for non applicant chose to remain absent when this case was taken up for hearing and also there is no request on his part for adjournment. Looking to the controversy involved in this application, the application is decided at the admission stage itself.

3. Marriage between applicant and non applicant took place on 19.06.2015 at Wardha. The applicant got one son from her marriage, who is aged about three years. The applicant is presently residing along with her son with her parents at Wardha. It is stated in the application that non applicant/husband filed a petition for divorce against the applicant and the said divorce petition is registered as Hindu Marriage Petition No. 236/2018 and is pending on the file of learned Civil Judge Senior Division, Yavatmal. For decision of this application, the merits or demerits of the allegations made in the divorce proceedings are not required to be gone into.

4. Needless to mention that the applicant has filed her written statement and contested the divorce petition. It is also stated in the present application that in the divorce proceedings, the applicant filed an application under Section 24 of the Hindu Marriage Act and claimed for maintenance pendent lite and the said application is allowed by learned Judge and granted Rs.6,000/- towards maintenance and Rs. 10,000/- as expenses. On affidavit it is stated that as the applicant has not received any amount in spite of order operating against the non applicant.

5. The non applicant has not filed any reply to this application under consideration. Consequently, the statements of facts made on affidavit have remained uncontroverted.

6. The applicant is residing at her parent's house along with her son aged three years and she being not employed she is only dependent on her parents. Not only that though the learned Judge before whom the proceedings are pending has granted maintenance in favour of the applicant. The non applicant has failed to give any amount of maintenance as directed to him.

7. The applicant has filed proceedings against the non applicant under relevant provisions of Domestic Violence Act at Wardha. In that notices are already issued, is the submission made by the learned counsel for applicant.

8. Since the applicant is a helpless lady without any means, it will be cumbersome for her to travel from Wardha to Yavatmal on each and every date to attend the divorce proceeding. Therefore, in my view, this is a fit case wherein this Court should exercise its discretion under Section 24 of the Code of Civil Procedure. Hence, I pass the following order.

ORDER

- (i) The application is allowed.
- (ii) Divorce proceedings filed by non applicant i.e. Hindu Marriage Petition No.236/2018 pending on the file of learned Civil Judge Senior Division, Yavatmal stands transferred from the said Court to the learned Civil Judge Senior Division, Wardha. Learned Civil Judge Senior Division, Wardha shall decide the said proceeding in accordance with law.

Rule is made absolute in the above terms. No order as to costs.

JUDGE

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