

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

WRIT PETITION NO. 4732/2021

Mital Rajesh Firke...Versus...Rajesh Pundlikrao Firke

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

Court's or Judge's orders

Mr. J.B.Gandhi, Advocate for petitioner
Ms. Nisha N. Burange, Advocate for Respondent

CORAM : AVINASH G. GHAROTE, J.

DATE : 25/11/2021

Heard Mr. Ghandi, learned counsel for the petitioner and Ms. Burange, learned counsel for the respondent.

The petition challenges an order dated 7.10.2021, passed below Exh.38 - an application for amendment of written statement in matrimonial proceedings under Section 13 of Hindu Marriage Act, which has been rejected by the learned Trial Court and so also the order dt. 7.10.2021, passed below Exh.40 whereby the application of the petitioner to approach this Court has been allowed, subject to cost of Rs. 20,000/-.

The position of amendment of pleadings vis-a-vis matrimonial proceedings has to be considered in a liberal manner, considering the very nature of the proceedings. The application admittedly seeks to bring on record events subsequent to 23.9.2021, which are the events transpired during the pendency of the petition,

considering which the rejection of the application on the ground that the petitioner will have an opportunity to cross-examine on the pleas sought to be raised in the amendment application, is wholly unjustified. It would be necessary for the petitioner to place on record the subsequent events which are sought to be proved during the course of the trial, considering which even though the application has been filed at a belated stage, considering that the respondent would have every right of rebuttal and cross-examination, the impugned order on the application under Order VI, Rule 17 of CPC is hereby quashed and set aside and the application at Exh.38 is hereby allowed. In so far as the order below Exh.40 is concerned, the costs of Rs.20,000/- for an adjournment to approach this Court is also not justified, as being unreasonable, considering which the same is also quashed and set aside. The petition therefore is allowed in above terms. No order as to cost.

The Learned Trial Court is however requested to decide the proceedings as expeditiously as possible and the parties are directed to cooperate in expeditious disposal.

JUDGE

rvjalit