

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

WRIT PETITION NO. 5104/2021

Virendra Rambhau Uikey ..Versus... Anjali Virendra Uikey

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

Court's or Judge's orders

Mr. Apurv De, Advocate for petitioner
Mr. C.R.Sharma, Advocate for Respondent

CORAM : AVINASH G. GHAROTE, J.

DATE : 09/12/2021

Heard Mr. De, learned counsel for the petitioner, who being aggrieved by the order passed below Exh. 23 and 23A, dated 11.10.2021, permitting the respondent to file her written statement beyond a period of 90 days in proceedings under Section 13(1)(i-a) of Hindu Marriage Act, has filed the present petition contending that the application does not disclose any logical reason for permitting the respondent to file her written statement. The reason stated in the application that respondent was under the impression that the written statement was already filed and therefore, upon discovering that it was not so done, leave was sought, which, according to him, ought not to have been accepted as the respondent throughout was indolent in her attitude in the proceeding. It is therefore submitted that the impugned order needs to be quashed and set aside and the application to file written statement be rejected.

Mr. Sharma, learned counsel for respondent submits that the lis is necessary to be decided on merits and though there has been some inadvertent lapses on part of the respondent, the doors to contest the litigation on merit may not be shut off. He further submits that the learned Court below has already imposed cost of Rs. 500/- upon the respondent, which would satisfy the petitioner.

It is a settled position of law that any litigation has to be decided on merits, as decisions rendered exparte, clearly lead to multiplicity of proceedings, considering which in spite of the fact that delay has been caused, in my considered opinion, the same can be compensated by imposing costs upon the respondent, considering which the costs of Rs. 500/- imposed by the learned lower court is enhanced to Rs.5000/-, which shall be paid by the respondent to the petitioner, within a period of one week from today.

The petition for the aforesaid reasons is dismissed.

JUDGE

rvjalit