

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 953 OF 2021

Balaji Keshavrao Tumbalwad
Age: 32 years, Occ. Service,
R/o Dombivali (West)
Dist. Thane.

.. **Petitioner**

Versus

Sau. Arti w/o. Balaji Tumbalwad
Age: 32 yrs. Occu. Service,
R/o Jadhavwada, Karva Nagar,
Jalna, Tq. & Dist. Jalna.

.. **Respondent**

...

Mr. Moinpasha Shaikh Farid h/f. Kanade Angad L., Advocate for the Petitioner.
Mr. Vishnu Jaware, Advocate for the respondent.

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**CORAM : SMT. VIBHA KANKANWADI &
Y.G. KHOBRADE, JJ.**

DATE : 18th October, 2022

JUDGMENT:- (Per: Y.G. Khobragade, J.)

Rule. Rule made returnable forthwith. With the consent of the parties taken up for final disposal at admission stage.

2. The petitioner (husband) invoked jurisdiction of this Court under Article 226 of the Constitution of India and prayed for issuance of direction to the learned Family Court, Jalna to decide Petition No. A-I/75/2021 (original

HMP No.234/2017) expeditiously preferably within a period of three months from the date of order of this Court.

3. In short, the petitioner (husband) filed a proceeding bearing HMP No.234/2017 before the learned C.J.S.D., Jalna under Section 13(1) of the Hindu Marriage Act, 1955 against the present respondent (wife) and prayed for decree of dissolution of marriage which was solemnized on 15.02.2013. According to the petitioner, on 15.08.2013 his marriage was solemnized with the respondent at Shivaji Mangal Karyalaya, Kautha, Nanded as per Hindu custom and rites and out of their wedlock they are blessed with child namely, Atharva. Initially, respondent-wife co-habited with him at Itwara, Nanded and for a few days she behaved with him properly, however, subsequently the respondent-wife was suspecting on his character and on that count she was physically and mentally torturing him. The petitioner was serving in Police department as Constable at Mumbai but subsequently he has been transferred at Nanded. Thereafter, the petitioner filed HMP No.234/2017 for dissolution of marriage, however, during the pendency of the said petition on 11.08.2021 said HMP No.234/2017 was transferred to the file of learned Family Court, Jalna and as per order no.A-I/75/2021 dated 09.08.2021 passed by the Principal District and Sessions Judge, Jalna, the same proceeding was re-

registered vide Petition No.A-202/2021 but it is not finalised, hence, prayed for issuance of direction for expeditious disposal of the matter.

4. On 22.06.2022, this Court passed an order and called a status report of Petition No. A-202/2021 from the file of learned Family Court, Jalna. Accordingly, the learned Judge of the Family Court, Jalna submitted status report of the matter which shows that on 29.08.2017 the petitioner instituted petition for dissolution of marriage. On 12.10.2017 the respondent-wife appeared in the matter and filed written statement (Exhibit-12) on 18.12.2017 along with the interim application for maintenance vide (Exhibit-14). On 15.01.2018 the petitioner filed his reply to interim application vide (Exhibit-16) and said application was promptly decided by the learned Trial Court. Thereafter, on 11.06.2018 the learned trial Court framed issues at (Exhibit-18). On perusal of Roznama it shows that the petitioner and respondent submitted various applications and the learned Trial Court fixed the matter as per schedule, so also on 10.06.2022 and 18.06.2022 the petitioner himself was absent and for some time the Court's work was suspended due to pandemic (Covid-19). The petitioner has not brought any substantial material on record to show that due to conduct of the learned Trial Court there is delay while deciding Petition No.A-I/75/2021 (old HMP No.234/2017). However, on the face of record it appears that, when the

petitioner was discharging his duty as Police Constable at Mumbai he was not diligent and after his transfer at Nanded he has filed present petition and praying for expeditious disposal without considering the pendency of the matter on the file of learned Trial Court. Therefore, we do not find that the petitioner has made out any substantial case for issuance of direction as prayed for. Not only this but the petitioner has unnecessarily dragged the respondent-wife to this Court due to which financial burden is cast upon the respondent-wife. Under these circumstances, it would be just and proper to compensate the respondent-wife with appropriate cost. In view of above discussion, we are not inclined to grant the present petition and proceed to pass the following order:

ORDER:

- I) The Writ Petition is hereby dismissed with cost of Rs.10,000/- payable by the petitioner to the respondent-wife within a period of four weeks from today or in alternative the petitioner should deposit the said cost before the Trial Court within four weeks from today and on deposit of the same the learned Trial Court may release the said amount in favour of the respondent-wife.
- II) Rule is discharged.

[Y.G. KHOBRADE, J.]

[SMT. VIBHA KANKANWADI, J.]