

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1649 OF 2021

Minal Rajesh Mehta	.. Petitioner
Versus	
Rajesh Ramesh Mehta	.. Respondent

...

Mr. Harshad Bhadbhade i/b Swati Khot for the petitioner.
Mr. Prabhanjan B. Gujar, APP for the State.

CORAM: BHARATI DANGRE, J.
DATED : 4th MARCH, 2022

P.C:-

1 The small issue that trouble the parties is an order passed by the Civil Judge, Sr. Division, Khed in HMP No.193/2018 and 194/2018.

2 Worth it to mention that both the parties have filed different Marriage Petitions seeking diametrically opposite reliefs, the wife seeking relief for restitution of conjugal rights and the husband seeking relief for dissolution of marriage. Both the Marriage Petitions are pending on the file of the Civil Judge, Sr. Division, Khed.

 In these proceedings, the applicant moved an application for permitting common evidence to be recorded so as to avoid conflicting orders and also to save the time of the Court. This application has been rejected by the Court by the following order :-

Tilak

"The Court do not find substance in the application. Hence, the Application is rejected"

3 As far as the matrimonial proceedings are concerned, every endeavour should be made by every Court to dispose off the proceedings as expeditiously as possible because it is not only the life of the two partners which is at stake but it also involve the other family members, including the children and other close relatives. This attempt is always encouraged by all the Courts so that in shortest possible time, the matrimonial discord between the parties are adjudicated and put to rest.

4 It is in this background the application is preferred by the applicant in the two proceedings which are pending before the same Court, to record common evidence, as far as common issued are concerned. It is true that the relief sought by the two marriage petitioners is distinct, but an attempt is made by the parties seeking reading of evidence adduced in one proceedings, in another, since otherwise the proceeding which are filed and pending since the year 2018, would take considerable time for its disposal.

5 It is not uncommon that the common evidence can be lead in the two applications or the learned Judge can arrange the sequence of evidence in such a manner that the evidence in both the proceedings can be recorded simultaneously. Even without even applying it's mind to the possibility of curtailing the

time line for both disposal of the Marriage Petitions, the learned Judge has simply rejected the application on the ground that no substance is found. This may not be the right course for the learned Judge to follow. The impugned order therefore, cannot be sustained. Since the proceedings are pending since the year 2018, with the assistance of the respective counsel who are agreeable for assisting the Court in deriving a mechanism to avoid conflicting order and also to save the time of the Court, appropriate mechanism can be adopted by the Court as is permissible for examination in the Evidence Act and the proceedings can proceed.

The parties are at liberty to lead common evidence in the sequence that has been provided under Section 138 and 139 of the Indian Evidence Act, and if they are desirous of adopting evidence led in one proceeding in the other, they are permitted to do so.

6 In the wake of the above, the Writ Petition is allowed by setting aside the impugned order.

Since the proceedings are pending before the learned Judge, since 2015 the Marriage Petition shall be expedited preferably within a period of four weeks from today.

SMT. BHARATI DANGRE, J