

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**NAGPUR BENCH : NAGPUR****WRIT PETITION NO. 1697 OF 2022**

Sachin s/o Anand Thorat

..vs..

Smt. Sangita w/o Sachin Thorat and anr.

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

Court's or Judge's orders

Shri S.R. Deshpande, Senior Advocate assisted by Shri Sumit Mule,
Advocate for the petitioner.

CORAM : ROHIT B. DEO, J.**DATED : 08/04/2022.**

The petitioner is the defendant in Special Civil Suit 34 of 2016 which is instituted by his estranged wife for permanent alimony and recovery of arrears of maintenance. Certain other reliefs are sought, which are incidental or consequential in nature. After framing of the issues, and before the trial had commenced, the plaintiff preferred an application under Order VI Rule 17 of the Code of Civil Procedure (the Code), seeking the amendment of the pleadings. It is discernible from the proposed amendment that the pleadings pertain to the alleged cruelty and refusal by the petitioner to cohabit with and maintain the plaintiff-wife. The petitioner resisted the application under Order VI Rule 17 of the Code *inter alia* on the ground that the application is hopelessly delayed and that the same is moved after the commencement of the Trial. The petitioner contended that the only intention is to delay the trial. The learned Trial Judge has allowed the application under Order VI Rule 17 of

the Code on the premise that the averments are necessary and relevant in the context of the suit being under Section 18 of the Hindu Adoptions and Maintenance Act, 1956. The learned Trial Judge further held that the proposed amendment is necessary for just and effective decision and while observing that there is indeed some delay, imposed costs as to compensate the defendant to a certain extent.

2. Insofar as the objection that the trial had commenced, the learned Trial Judge rightly rejected the same since only issues are framed.

3. Considering the nature of the controversy, and the fact that the plaintiff-wife ordinarily would not be benefited by the delay, I am not inclined to interfere in the order impugned.

4. However, considering the apprehension of the petitioner-husband that the intention of the plaintiff is to delay or protract the litigation, the learned Trial Judge is requested to expedite the hearing of the suit and to conclude the same, as far as possible, in the next nine months.

5. Subject to the direction *supra*, the petition is dismissed.

JUDGE