

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Writ Petition No. 1660 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

Mr. S. N. Muley, Advocate h/f Mr. S. S. Deshpande, Advocate for the
petitioner

CORAM : ROHIT B. DEO, J.

DATED : 30-3-2022

The petitioner is the defendant in Special Civil Suit 34/2016 which is brought by his wife, Smt. Sangita for permanent alimony and recovery of arrears of maintenance.

2. Harshal is the son born from the wedlock between the petitioner and Smt. Sangita. Harshal is residing with Smt. Sangita. An application (Exhibit 23) was preferred by Smt. Sangita invoking the provisions of Order I Rule 10(2) of the Code of Civil Procedure for leave to add Harshal as co-plaintiff. This application was opposed by the petitioner – husband on the premise that the suit is fixed for evidence and addition of Harshal in the array of plaintiffs will change the nature of the suit.

3. The learned trial Judge referred to the provisions of the Hindu Adoptions and Maintenance Act and noted that the husband is duty bound to maintain Harshal and that in the suit plaint, Smt. Sangita has already pleaded that her husband has not made any provision for the maintenance of the son. The trial Judge reasoned that since the suit is for past and future maintenance, in

accordance with Section 18 of the Hindu Adoptions and Maintenance Act, the presence of Harshal would be necessary.

4. Adverting to the objections on the premise that the application is delayed, the learned trial Judge observed that while there is some delay, which according to Smt. Sangita, is caused due to the lapse of earlier counsel, since Harshal is a necessary party, the application cannot be rejected only on the ground that there is some delay in preferring the application.

5. I broadly agree with the findings recorded by the learned trial Judge. All that is sought is addition of Harshal in the array of plaintiffs. Considering the issues involved, I agree with the learned trial Judge that Harshal's presence is necessary.

6. I see no reason to interfere in writ jurisdiction.

7. The petition is dismissed.

JUDGE

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