

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

WRIT PETITION NO.2638 OF 2023

**DAYASAGAR PRABHU SURWASE
VERSUS
SUNITABAI DAYASAGAR SURWASE**

...
Mr. Mohit R. Deshmukh, Advocate for Petitioner
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 06th MARCH, 2023

PER COURT :

1. By this petition, petitioner impugns the order passed by learned Civil Judge Senior Division, Nilanga, dated 18/01/2023, below Exhibit-263 in R.C.S. No.83/2012.
2. By the application Exhibit-263, filed under Order VI Rule 17 of CPC, plaintiff/respondent sought amendment by inserting words "at village Gangapur, Tq. Udgir" instead of "at village Borsuri, Tq. Nilanga" appearing in para No.1 of the plaint. The same pertains to the place of marriage of plaintiff/respondent and defendant/ petitioner.
3. Learned advocate for petitioner/defendant assailed the impugned order stating that there is chequered history of litigation between the parties and petitioner/defendant has denied the very solemnization of marriage between respondent/plaintiff and

petitioner/defendant. He submits that in one of the proceedings between the parties plaintiff has given different place of marriage. Present application is moved at the fag end of hearing of the suit. Further submission is that similar application is filed at Exhibit-144 and the same was rejected by the Court by detail order dated 21/03/2016, which was not challenged by the respondent/plaintiff.

4. Perusal of the application Exhibit-144 shows that amendment was proposed in that application in para No.1 wherein it was mentioned that "the plaintiff is legally wedded wife of defendant. The marriage of plaintiff solemnized with defendant "at" village Borsuri Tq. Nilanga in the year 1986". It is claimed in the said application that word "at" is wrongly typed at the place of word "of" due to typing mistake and that needs to be corrected. Thus, it is not possible to agree with the submission of learned advocate for petitioner that Exhibit-144 was filed with similar prayer which was rejected and therefore, present application could not be allowed by the trial Court.

5. By the amendment, name of village at which alleged marriage took place between plaintiff and defendant is only changed. This cannot be said to be of any serious prejudice to the defendant merely because name of village is changed. Learned advocate for petitioner also submitted that criminal Court has given

findings in favour of defendant that plaintiff has failed to prove solemnization of marriage with defendant/petitioner. It is settled legal position that findings of criminal Court are not binding upon the Civil Court. Petitioner may take advantage of the said findings as permissible in law.

6. No case is made out by the petitioner for interference in the exercise of extraordinary writ jurisdiction. There is no illegality or perversity in the order impugned in present petition. Writ petition is, therefore, rejected.

(NITIN B. SURYAWANSHI, J.)