

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

CRIMINAL WRIT PETITION NO. 1357 OF 2022

Suman Ananta Kadam

.. Petitioner

Versus

Ananta Gena Kadam and another

.. Respondents

Mr. Sudheer R. Zambare, Advocate for the Petitioner.

Mr. Avinash D. Aghav, Advocate for Respondent No. 1.

Mr. Y. G. Gujarathi, APP for Respondent No. 2.

CORAM : KISHORE C. SANT, J.

DATED : 24th MARCH, 2023.

P C. :-

. Heard learned advocates for the parties for some time.

2. This petition is filed against the judgment and order dated 08.04.2022 passed by the learned Additional Sessions Judge, Shrigonda in Criminal Revision Application No. 55/2019 by which the revision filed by the respondent No. 1 came to be allowed and the judgment and order dated 08.09.2017 passed by the learned J.M.F.C., Karjat in Criminal M. A. No. 19/2014 is set aside.

3. The petitioner claims herself to be wife of respondent No. 1 who married with him in the year 1970. There is no child from the marriage. It is alleged that, till 2009 she was staying with the husband.

However, in the year 2009 she was driven out of house and therefore, she filed an application for maintenance.

4. It is the case of respondent No. 1 since that there is no relationship between the parties. In the proceeding, the wife could not give any evidence to show that she is wife of respondent No. 1. There is nothing on record to show that the parties are husband and wife. The only document the petitioner could file is 7/12 extract of the land from village Karjat and she examined two persons who deposed that they had attended the marriage of the petitioner with respondent No. 1. The learned Trial Court believed the evidence of those two witnesses who submitted that the witnesses were present at the time of marriage in the year 1970.

5. Looking to the age of the parties, it is seen that, the petitioner was hardly of one year in 1970 that is admitted fact. The witnesses who examined also are not related to the petitioner, but they claim to be brothers of petitioner as they have common Guru.

6. It is the case of respondent No. 1 that, not a single document like ration card, Voter ID card or any other document the petitioner is shown to be his wife. There is no document to show her address to be of respondent No. 1.

7. The learned Trial Court, however, recorded that in the year 1970 there were no photographs. The registration of marriage is not done in the villages. The Court has considered that, the land Gat No. 207 from Karjat shows some land in the name of respondent No. 1 and granted maintenance at the rate of Rs. 1,500/- (Rs. One Thousand Five Hundred only) per month to the petitioner and Rs. 3,000/- (Rs. Three Thousand only) towards expenses.

8. The respondent No. 1 preferred criminal revision application. The revisional Court after going through the record has clearly recorded that, there is not a single document to show the relationship between the parties. In the Voter ID card, in the name of the petitioner, her father's name is shown. The surname is also of her father and therefore, it is recorded that, at least in the Voter ID card her name could have been given and this believe the case of the petitioner.

9. This Court finds that, the learned Sessions Court has rightly appreciated the evidence and has recorded the finding. It cannot be said that, till 2009 the petitioner stayed with the respondent No. 1 as husband and wife and still she does not have a single document to show such relationship or to show address proof of house. The land which she alleges is from different village and not of the village where

respondent No. 1 is residing. She has not produced that the name of person in 7/12 extract is the same person as respondent No. 1.

10. Considering all these facts, this Court finds that, no case is made out to allow the writ petition. The writ petition is therefore dismissed and disposed off.

(KISHORE C. SANT, J.)

P.S.B.