

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

WRIT PETITION NO. 13309 OF 2023

Anuja Ajinkya Ganechari .. Petitioner

Versus

Ajinkya Nagnath Ganechari .. Respondent

Ms. Sunita G. Sonawane, Advocate for the Petitioner.
Shri Hemant Surve, Advocate for the Respondent.

**CORAM : SHAILESH P. BRAHME, J.
DATE : 08TH NOVEMBER, 2023.**

FINAL ORDER :

. Heard learned counsel for both sides finally at the admission stage.

2. The petitioner is challenging the quantum of the cost imposed by the learned Family Court/Judge while allowing her application Exhibit 166 vide order dated 03.10.2023. The respondent has initiated petition for dissolution of marriage in the Family Court at Aurangabad against the petitioner bearing Petition No. A-214 of 2022.

3. It is the case of the petitioner that there is matrimonial discord between the parties. She has filed petition U/Sec. 125 of the Code of Criminal Procedure and secured maintenance of Rs. 20,000/- per month. She has no source of income. The respondent filed petition for dissolution of marriage as stated

above, which was at the relevant time for recording of evidence. The evidence of the respondent was over. The petitioner was in the witness box and her cross examination was recorded partly.

4. On 29.09.2023 the matter was for further cross examination of the petitioner. Because of the ill-health she was unable to remain present. Her mother who was present informed the Court accordingly. Her cross examination was forfeited by order dated 29.09.2023, which is at page No. 122. She submitted application at Exhibit 166 on 03.10.2023. with the medical certificates to show that she was unwell. Her application was opposed by the respondent. It was allowed by imposing cost of Rs. 20,000/-.

5. The learned counsel for the petitioner submits that the quantum of cost is unreasonable and taxing. The learned Judge has not taken into account the feeble condition of the petitioner. Due to her illness she was unable to remain present on the relevant date and there was no intention to dodge the proceedings. The learned counsel submits that the approach of the learned Judge is unpragmatic and the impugned order is perverse.

6. The learned counsel Mr. Hemant Surve for the respondent supports the impugned order. He has referred to the depositions of the petitioner, in the form of cross examination which are at page Nos. 115 to 119. The petitioner was being cross examined for number of days because of her non co-operation. Her

demeanor was noticed by the learned Presiding Officer and the cost is rightly awarded. He submits that the order dated 29.09.2023 also reflects the conduct of the petitioner. The learned Judge has recorded her conduct referring to various dates and thereafter awarded the cost.

7. The learned counsel for the respondent submits that the grounds shown in the application Exhibit 166 discloses to be palpably false. On 30.09.2023, when she was ill, she was reported to have appeared before the Sessions Court in furtherance of appeal. He further submits that his client is punctual in paying the maintenance awarded to the petitioner, still she is not co-operating with the Court.

8. The present challenge is to the extent of quantum of cost only. The petitioner gets maintenance of Rs. 20,000/- per month from the respondent. By speaking order the learned Judge of the Family Court has recorded the conduct of the petitioner. The roznama of the present proceeding as well as roznama of the Sessions Court for 30.09.2023 have been considered. The conduct is recorded in earlier order dated 29.09.2023. Considering overall conspectus of the matter, the learned Judge has come to the conclusion that the petitioner is deliberately dodging with the proceedings and not cooperating with the Court. Her conduct reflects on the quantum. I do not see any illegality or perversity in imposing cost of Rs. 20,000/-.

9. Her mother who was present on 29.09.2023 could have

disclosed the illness of the petitioner to the Presiding Officer. On 30.09.2023, the petitioner was reported to be in the Sessions Court. There is element of falsehood. In such case the Presiding Officer is justified to be strict.

10. I find no merit in the present petition. The writ petition is dismissed.

[SHAILESH P. BRAHME, J.]

bsb/Nov. 23