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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1084 OF 2023

Aboli Alias Yugandhara Tejpal Patil

PETITIONER

VERSUS

Tejpal Premchand Patil

RESPONDENT

.....

Mrs. Rashmi S. Kulkarni, Advocate for the petitioner

Mr. Ravindra M. Deshmukh, Advocate for the respondent

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 25th JULY, 2023

ORDER :

1. By this petition, the petitioner has challenged order dated 20th July, 2022 passed by the learned Judge, Family Court, Jalgaon below Exhibits-16 and 34 in Petition No. A-334 of 2019, thereby allowing the applications filed by the respondent – husband and permitting him to undergo impotency test in Civil Hospital at Mumbai, at his own expenses and submit report.
2. Pursuant to the impugned order, the respondent-husband claims to have undergone impotency test and has filed certificates issued by Municipal Corporation Hospital, Sion (W) Mumbai. The said certificates are exhibited by the Family Court.

3. The petitioner is aggrieved by exhibition of the said certificates.

4. Heard learned advocate for the petitioner and the learned advocate for the respondent. Perused the memo of writ petition, documents annexed along with it and the impugned order.

5. Learned advocate for the petitioner submits that the impotency test should have been conducted by Medical Board and not by a doctor of Municipal Corporation Hospital. It is further submitted that the certificates do not show that impotency test is conducted on the respondent – husband. It is mentioned in the certificates that there is no erectile dysfunction. She further submits that name of the doctor who has conducted the test is not disclosed from the certificates and the certificates were tendered by the respondent – husband in the Court and they are exhibited and admitted in evidence by the Family Court, without even calling upon the petitioner – wife.

6. Learned advocate for the respondent – husband supports the impugned order and opposed the writ petition.

7. It is well settled that mere exhibition of document does not mean that it is admitted and would be read in evidence. If the respondent does not examine the Doctor, who has issued these

certificates, the petitioner can ascertain name of the said Doctor, in the cross-examination of the respondent and if necessary, can request the Family Court to issue witness summons to the said Doctor.

8. This Court is avoiding to express any opinion on the merits of the matter, as the Family Court is seized of the matter. Writ petition is, therefore, disposed of with liberty to the petitioner – wife to challenge admissibility, proof and relevancy of the medical certificates produced by the respondent – husband, in accordance with law.

[NITIN B. SURYAWANSHI]
JUDGE