

Arjun

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.742 OF 2020

Nurullain Nizammuddin Shaikh ...Petitioner

V/s.

Yasmin Nurullain Shaikh & Anr. ...Respondents

None for the Petitioner.

**CORAM : MADHAV J. JAMDAR, J.
DATED : AUGUST 25, 2023**

P.C.:

1. On 18th August 2023, a learned Single Judge of this Court passed the following order and listed the matter under the caption for 'dismissal'.

"1. This Petition is pending since 2020. It was listed on 17.2.2020. At that time, at the request of learned counsel for the Petitioner, it was adjourned to 2.3.2020. After that, the matter was not listed. Learned counsel for the Petitioner has not taken any steps to get the matter circulated before the Court. It appears that the Petitioner is not interested in prosecuting this Writ Petition.

2. Therefore, by way of a last chance, the matter be listed on 25.8.2023, under the caption : 'for dismissal'."

2. The Petitioner who is husband is challenging the

legality and validity of the order dated 16th September 2019 passed by the learned Additional Sessions Judge, City Civil & Sessions Court, Greater Mumbai in Criminal Appeal No.613 of 2019. By the impugned order, the said Appeal was dismissed.

3. In the said Appeal, challenge is to the legality and validity of the order dated 3rd October 2018 passed by the learned Metropolitan Magistrate, 32nd Court, Bandra, Mumbai below Exh.-P-2 in C.C. No.110/DV/2018. By the impugned order dated 3rd October 2018, maintenance of Rs.4,000/- per month was directed to be paid and further directed that the Petitioner shall not dispossess the Respondent No.1 from the disputed room which is a shared household.

4. Perusal of the impugned orders show that the impugned orders are passed by taking into consideration the material on record. The impugned order passed by the learned Metropolitan Magistrate is in operation since 3rd October 2018. There is nothing to show that the said order was stayed by the learned Appellate Court. The learned Appellate Court has dismissed the Appeal by order dated 16th September

2019.

5. Therefore, interference by this Court under Article 226 and 227 of the Constitution of India is not warranted.

6. Accordingly, the Writ Petition is dismissed, however, with no order as to costs.

[MADHAV J. JAMDAR, J.]