

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.5092 OF 2023

Dipak Dhekal Meshram .Vs. Badal Vijay Raut

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.A. Dhawas, Advocate for the petitioner.

CORAM : ANIL S. KILOR, J.

DATED : 10/08/2023

1. The order below Exh.21 dated 15.07.2022 passed by the Family Court, Nagpur rejecting the objection raised by the petitioner to the maintainability of execution proceeding, is under challenge in this writ petition.

2. It is the case of the petitioner that, both the parties arrived at a settlement before the Family Court and accordingly, the decree of dissolution of marriage was passed. However, no such condition of payment of Rs.40,000/- per month by the petitioner to the respondent was agreed by the petitioner. However, some manipulation was made in the written settlement and on the basis of the same, the execution proceeding was filed.

3. It is further submitted that in operative part of the order there is no direction to pay Rs.40,000/- per month and therefore, the decree is not executable.

4. As far as settlement is concerned, the petitioner is not disputing the same and as regards the objection about alleged manipulation is concerned, the learned executing Court has rightly held that the executing Court cannot go beyond the decree

5. As far as the payment of Rs.40,000/- per month as monthly alimony is concerned, undisputedly, in the decree dated 10.02.2020 in paragraph 7 i.e. there is a mention of said condition. Therefore, it cannot be accepted that the petitioner was not aware about the said condition and he never agreed upon such condition.

6. In the circumstances, certain overwriting is in the petition under Section 28 of the Special Marriage Act, 1954 for dissolution of marriage, cannot made the un-executable. Moreover, wherever there is overwriting, counter signature are there and there are no allegation who has made this over writing in the Court record and no complaint was made to the concerned Court about such manipulation in the Court record.

7. In the circumstances, I do not find any merit in the present writ petition. Accordingly, the writ petition is **dismissed.**

JUDGE