



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

977 WRIT PETITION NO. 1286 OF 2023

**MAHENDRA ARVIND GANJEWAR
VERSUS
SHRADDHA MAHENDRA GANJEWAR**

...
Advocate for the petitioner : Adv.S.R.Bagal
Advocate for Respondent : Adv.S.V.Kulkarni
...

CORAM : ARUN R. PEDNEKER, J.

DATE : 16.02.2024

P.C. :

1] Heard the learned counsel for the parties.

2] The marriage between petitioner and respondent was solemnized on 19.02.2010. From the said wedlock, the petitioner and respondent have two children. Since 2018, the respondent is residing with her parents along with her two children. On 21.08.2020, the respondent filed HMP No.29/2020 before CJSD, Biloli for restitution of conjugal rights. On 09.09.2020, the respondent had also filed complaint under the provisions of Protection of Women from Domestic Violence Act. Thereafter on

28.01.2021, petitioner appeared in HMP No.29/2020 and filed his written statement denying all contentions. On 23.11.2022, the matter reached the stage of evidence. The respondent examined herself and closed her evidence. The petitioner examined himself. The matter was adjourned for further evidence to 23.11.2022. However, the petitioner was absent on the said date due to personal difficulty and the CJSD, Biloli passed evidence close order against him.

3] On 13.01.2023, the application below Exh. 35 was filed by the petitioner seeking setting aside the evidence close order and seeking permission to lead further evidence. By the impugned order dated 13.01.2023, the Civil Judge Senior Division, Biloli rejected the said application. While rejecting the said application, the trial Court has observed that the respondent – husband failed to lead evidence of witnesses and in the application also, nothing is mentioned to show as to whose testimony the respondent is likely to record. The court further observed that there is nothing to show as to how many witnesses, the

respondent wants to examine. Thus, the Court held that the respondent wants to prolong the matter. Against the said order, the present writ petition is filed.

4] The learned counsel for the petitioner submits that the petitioner wants to bring on record the CCTV footage, video recording and audio clips showing the unbearable conduct and behaviour of the present respondent which makes their cohabitation impossible and that his right to defend his case would be lost in the event opportunity is not granted to the petitioner.

5] *Per contra*, the learned counsel for the respondent submits that the petitioner is not contesting the matter seriously. At the time of hearing of the present proceedings before the trial Court, the petitioner was absent. Thereafter, on multiple occasions also, the petitioner remained absent, due to which, the respondent has to face difficulty in conducting the proceedings.

6] Having considered the rival submission, I deem it appropriate to allow the present writ petition subject to cost of Rs.5000/-. The impugned order dated 13.01.2023 passed by the Civil Judge Senior Division, Biloli below Exh.35 in HMP No.29/2020 is quashed and set aside. By way of last opportunity, the petitioner is granted opportunity to lead further evidence. However, it is directed that the petitioner would not seek adjournment without reasonable cause in the matter. The aforesaid amount to be paid to the respondent – wife before the trial Court.

7] Writ Petition is disposed of accordingly.

[ARUN R. PEDNEKER]
JUDGE

DDC