



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

51 WRIT PETITION NO. 4766 OF 2024

MAYURI SURAJ PANGAVANE
VERSUS
AKSHAY KOPAT BAUKE

Mr. K. B. Borde, Advocate for the petitioner
Mr. a. P. Avhad and Mr. S. A. Patel, Advocate for respondent no.1.

CORAM : R. M. JOSHI, J.

DATE : 18th NOVEMBER, 2024

PER COURT :-

1. This petition takes exception to the order passed below Exhibit 51 by the learned Trial Court in H.M.P. 181/2021 whereby application filed by the applicant/ original respondent for examination of Gramsevak of Grampanchayat, Parala is rejected.

2. The facts as they appearing from record indicate that petitioner is original respondent in H.M.P. 181/2021 filed by the respondent/original applicant therein under Section 9 of the Hindu Marriage Act. In the said petition present petitioner/ original respondent has disputed the factum of her marriage with petitioner therein. In the light of these pleadings of the parties, the respondent had placed on record certificate of marriage dated 03/07/2023. The petitioner herein wants to disprove the said document and to prove the certificate issued

by Gramsevak of Grampanchayat, Parala to the effect that no such certificate was issued from the said office. This application came to be rejected. Hence, this petition.

3. Learned counsel for the petitioner submits that the Trial Court has committed error in refusing the application by ignoring the provisions of Section 5 of the Indian Evidence Act. It is his submission that the issue of the marriage between the original applicant and present petitioner is a subject matter of the said proceeding and it is open for the petitioner herein to disprove the document sought to be relied upon in the said proceeding.

4. Learned counsel for the respondent supported the impugned order by contending that the Trial Court has rightly rejected the application for the reason that the issue about the validity of the certificate is not involved in this case.

5. As recorded above there is a dispute with regard to the validity of marriage between the petitioner and respondent herein. The respondent claimed that there is a registration of marriage and certificate is placed before the Trial Court in this regard. The petitioner on the other hand wants to disprove the said document to support her case of she not being married with the respondent. Trial Court has apparently committed error in rejecting the application by holding that the issue of validity of

the marriage certificate is not involved in the said proceeding. The Trial Court has ignored the fact that the petitioner herein has denied the marriage with respondent. Thus, the correctness of the marriage certificate relied by respondent becomes relevant fact, as the same has bearing on facts in issue. In such circumstances, it is always open for the petitioner disprove the document sought to be placed on record by the respondent. Hence, there is substance in the petition and as such petition stands allowed in terms of prayer clause 'A'. Application Exhibit 51 is allowed. Trial Court to issue witness summons as prayed for.

6. Learned counsel for the respondent seeks expeditious disposal of the petition by the Trial Court. Learned counsel for the petitioner records no objection for the same.

7. Having regard to the fact that the petitioner is a lady and has challenged her marriage with respondent, so also in the interest of the both sides that the expeditious decision of petition essential. Hence, the petition be decided within a period of six (06) months from today.

(R. M. JOSHI, J.)

ssp