

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12135 OF 2023

Viswanathan Ramalingam

.. Petitioner

Versus

Nanda Viswanathan

.. Respondent

.....

- Ms. Rekha Musale, Advocate for Petitioner.
- Ms. Sarah Kapadia a/w. Ms. Anoushka Thangkhiew and Ms. Ankita Pachouri i./by Vesta Legal, Advocate for Respondent.

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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 01, 2024

P.C.:

1. Heard Ms. Musale, learned Advocate for Petitioner and Ms. Kapadia, learned Advocate for Respondent.

2. After hearing Ms. Musale and Ms. Kapadia for some time on the imminent possibility of a compromise, I have come to the conclusion that the claim and desire of the Petitioner and Respondent is completely at variance and reconciliation in any form to save the marriage is not possible, though it is the ardent wish of the Petitioner. The differences, *prima facie*, appear to be too wide, considering the submissions of the Respondent's wife. It is seen that both the parties are not only highly educated, but are in service / were in service and are well to do.

3. Without delineating on merits of the matter, I have impressed upon both the learned Advocates who have been candid

enough before me while making their respective submissions that in such a case it would be ideal for the learned Trial Court to adjudicate and decide the pending Marriage Petition filed by the Respondent seeking dissolution of marriage as expeditiously as possible and strictly in accordance with law. Learned Advocates for the respective parties inform that Marriage Petition No.650 of 2021 was filed on 21.07.2021 and the same was transferred to the newly carved out Family Court Bench presided by the Civil Judge Senior Division at Belapur, Navi Mumbai and renumbered as Marriage Petition No.181 of 2023.

4. Ms. Kapadia, learned Advocate appearing for the Respondent after taking instructions has agreed to the aforesaid.

5. Ms. Musale, learned Advocate appearing for the Petitioner before me though initially reluctant in view of the Petitioner's stance of going in for mediation, would submit to the orders of the Court. She would submit that at present the Petitioner is unwell and in Madurai. This should however not be the reason in view of the order that is being passed today for disposal of the Marriage Petition before the Trial Court and it is therefore impressed upon the Petitioner also that he shall abide by all such orders that will be passed by the learned Trial Court for disposal of the Marriage Petition.

6. Once again without observing anything on merits of the case, the impugned order dated 21.07.2022 stands set aside. However

this does not mean that this Court has accepted any of the submissions of the Petitioner delineated in his Application filed below Exhibit-14 or even ruled on them. The need and necessity to set aside the order dated 21.07.2022 has only arisen in view of the stance adopted by both the parties which has been noted hereinabove.

7. Undoubtedly no Court can force any of the parties to consider the compromise if they are reluctant to do so. Both the learned Advocates have enumerated different reasons; these reasons touch on the merits of the matter and are serious and that is the precise reason why the present order is passed without observing anything on the merits of the case between the parties so that the trial in the Marriage Petition No.181 of 2023 is not affected and is completed without being influenced by any of the observations or findings by this Court. Needless to state that order dated 16.06.2023 is also set aside with a caveat that the learned Trial Court shall not be influenced by any of the findings returned in that order and proceed with the trial of Marriage Petition No.181 of 2023 strictly in accordance with law.

8. Ms. Kapadia would submit that there is one interlocutory application pertaining to seeking maintenance for the minor son which is pending before the Trial Court. Though Ms. Musale would submit that Petitioner has not been served with the copy of the Interim

Application, in order to ensure that no further delay takes place a soft copy as well as hard copy of the Interim Application shall be forwarded to Ms. Musale by tomorrow by Ms. Kapadia.

9. Once Ms. Musale receives the Interim Application, service of Interim Application stands dispensed with and no grievance shall be made before the Trial Court that the Petitioner has not been served with the copy of Interim Application. Affidavit-in-Reply to the Interim Application shall be filed by Petitioner before the Trial Court on 12.02.2024 alongwith the copy of his Written Statement. The learned Trial Court i.e. Family Court presided by the Civil Judge Senior Division, Belapur, Navi Mumbai seized with hearing of Marriage Petition No.181 of 2023 shall take on record and file the Written Statement and reply to the Interim Application of the Petitioner before me on 12.02.2024. Pursuant thereto it shall be the discretion of the concerned Court to decide the schedule for disposal of the Interim Application as well as the Marriage Petition strictly in accordance with law.

10. At the request of Ms. Kapadia, Advocate for the Petitioner is asked by the Court as to when the Written Statement to the Marriage Petition would be filed considering that the same is ready but not filed till date.

11. Ms. Musale, learned Advocate appearing for the Petitioner

would submit that the Written Statement shall be duly filed. Ms. Musale would submit that Written Statement is infact ready and the same shall be filed before the Trial Court on 12.02.2024 at the time of placing the present order before the Trial Court and taking further directions for adjudication of the Marriage Petition. She would submit that on that day itself in the Court copy of the Written Statement shall be handed over to the Advocate for the Respondent. Her statement is taken as undertaking given to this Court.

12. In the facts and circumstances of the present case, the learned Trial Court is therefore requested by this Court to dispose of Marriage Petition No.181 of 2023 as expeditiously as possible and preferably within a period of eight months from today. It is clarified that the Petitioner nor the Respondent shall be granted unnecessary adjournments by the learned Trial Court unless the adjournments are absolutely necessary and supported by appropriate reasons to be considered at the discretion of the learned Trial Court. Parties are directed to appear before the Trial Court with an authenticated copy of this order on 12.02.2024 at 10.30 a.m. and seek further directions for adjudication of Marriage Petition No.181 of 2023.

13. It is once again reiterated that any attempt made by any of the parties to prolong the trial by filing interlocutory applications shall be dealt with strictly by the learned Trial Court at its discretion and

appropriate orders be passed therein keeping in mind that the Marriage Petition is required to be disposed of expeditiously as directed by this Court.

14. With the above directions, Writ Petition is disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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