



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.636 OF 2023

Satish Shankar Holmukhe

... Petitioner.

Versus

Swapnali Satish Holmukhe

... Respondent.

Mr. Namitkumar S. Pansare i/by Mr. Aditya Mahadik for the Petitioner.

Mr. Rushikesh S. Kekane i/by Ms. Aditi S. Naikare for the Respondent.

Coram : Sharmila U. Deshmukh, J.

Date : May 06, 2024.

P. C. :

1. Heard.

2. By this petition, the challenge is to the order dated 17th October, 2022 passed by the Trial Court on an application below Exhibit 20 filed by the Respondent-wife seeking directions to the Petitioner to handover the file containing her original documents.

3. The application below Exhibit 20 came to be filed in divorce petition filed by the Petitioner-husband under Section 13(1)(ia) of the Hindu Marriage Act, 1955. In reply to the said Application, the Petitioner-husband has responded stating that the file of original document is not in custody of Petitioner-husband and thus there is no question of handing over the same to the Respondent-wife.

4. The Trial Court, at the interim stage, accepted the submissions of the Respondent-wife on the ground that non-availability of

the educational documents would harm the Respondent-wife.

5. During the hearing of the Petition, considering the submissions of the learned counsel for the petitioner that the file is not in the matrimonial house, vide order dated 23rd April, 2024, this Court permitted the Respondent-wife to visit the matrimonial house alongwith the lady constable to take a search and locate the file. Pursuant thereto, the Respondent-wife had visited the matrimonial house and was unable to locate the file of original documents in the matrimonial house.

6. Mr.Pansare, learned counsel for the petitioner submits that there was a specific denial that the file containing the documents is not with the Applicant and that at the time of leaving the matrimonial house, the Respondent-wife had taken away all her belongings.

7. *Per contra*, Mr.Kekane, learned counsel appearing for the Respondent submits that the original file was lying in the matrimonial house and had not been taken away by the Respondent-wife.

8. As per the order of this Court, the Respondent-wife had visited the matrimonial house but was unable to locate the file of original documents. It is, thus, a case of statement against statement and required evidence being led to demonstrate whether at the time of leaving the matrimonial home all the belongings were taken away by the Respondent-wife, at the interim stage, the application could not have been decided by the Trial Court. Even otherwise, if the file is not

located there cannot be any further relief which can be granted as would arise in the case where there is an allegation of jewellery lying in the matrimonial house by way of grant of compensation.

9. In light of the above, the impugned order dated 17th October, 2022 is hereby quashed and set aside. Petition stands allowed.

[Sharmila U. Deshmukh, J.]