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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.4018/2023

POONAM AGARWAL

..PETITIONER

VS.

THE STATE OF MAHARASHTRA & ANR.

..RESPONDENTS

Adv. Archit Jayakar a/w. Adv. Bhoomi Upadhyay, Adv. Shivani Prasad i/b. Jayakar & Partners for the petitioner.

Smt. S. D. Shinde, APP for the State.

Adv. Tauban Irani a/w. Adv. Sushmita S. for the respondent no.2.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 10, 2024.

P.C. :

- 1.** Heard learned counsel for the petitioner-wife and learned counsel for the respondent no.2-husband.
- 2.** In view of the order that I propose to pass, I am not referring to the facts of the present case in detail. Suffice it to observe that this is a writ petition by the wife for a residence order. It is the contention of learned counsel for the petitioner-wife that on the pending application for the residence order, the learned trial Judge is not passing any orders which is prejudicing the petitioner-wife.

3. Ms. Irani, learned counsel appearing for the respondent no.2- husband, while opposing this writ petition submitted that there is no application pending on which the order of residence could be passed. She submits that on the earlier occasion, the trial Court by an order dated 19/6/2023 has already passed appropriate orders below Exhibit 1, which was the application for residence order.

4. Learned counsel for the petitioner-wife submitted that the prayer clause 15 (3)(c) below Exhibit 1 which was not pressed earlier still subsists, as now the occasion has arisen necessitating the petitioner – wife claiming relief in terms of the said prayer.

5. Ms. Irani, learned counsel for the respondent no.-2 husband submitted that the petitioner-wife is not co-operating with the expeditious disposal of the application made by the husband under Section 340 of the Code of Criminal Procedure (Cr.P.C.). Ms. Irani, learned counsel, however, submitted that the respondent no.2-husband has no objection for deposit the compensation for residence in terms of the earlier arrangement in the trial Court till the decision on the application under Section 340 of the Cr.P.C.

and/or the decision in the application for residence if filed seeking such relief. The statement is accepted. Respondent to abide by the statement.

6. In the meantime, learned counsel for the petitioner-wife is granted liberty to file a separate application seeking reliefs in terms of prayer clause 15(3)(c) below Exhibit 1 which was not pressed earlier. If such an application is filed within four weeks from today, the same may be decided by the trial Court along with the application under Section 340 of the Cr.P.C. on its own merits and in accordance with law. I may not be construed to have expressed any opinion on the merits or otherwise of the contentions of the parties.

7. Till such time, the application/applications are decided, the respondent-husband to continue depositing Rs.1,05,000/- before the Trial Court. The trial Court is requested to make an endeavour to decide these applications as expeditiously as possible.

8. Liberty to apply in case any difficulty.

9. The writ petition is disposed of accordingly.

(M. S. KARNIK, J.)