

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11074 OF 2024

Heena Samnam Patni Alias Achhwa

... Petitioner

Versus

Noorjaha Achhwa dn Ors.

... Respondents

Ms. Preeti Walimbe a/w. Mr. Mayank Tripathi and Mr. Sahil Pandhire,
Advocates for the Petitioner.

Smt. V. S. Nimbalkar, AGP for the Respondent No.2-State.

CORAM : R. M. JOSHI, J.

DATED : 6th AUGUST, 2024.

P.C. :

1. Heard.

2. Learned counsel for the Petitioner submits that impugned order has been passed with the observations that there are quarrels between the petitioner and her husband and it is causing obstruction to the peaceful residence to aggrieved person. It is also submitted that except for this reason there is no other reason recorded for passing impugned order.

3. Learned AGP for respondent No.2 has brought it to the notice of this Court that in view of the order of the Division Bench of this Court in the case of *Jagdish Pitamber Pawar Vs. Pitamber Pundalik Pawar and Ors.* passed in Writ Petition No. 36 of 2023, a remedy of appeal is available for the Petitioner to take exception to the order impugned.

4. This contention is opposed by the learned counsel for the petitioner by placing reliance on the judgment of Division Bench in the case of *Dinesh B. Chandanshive Vs. State of Maharashtra (reported in 2024 SCC OnLine Bom 336)* .

5. Since arguable case is made out by the Petitioner by keeping the issue of maintainability of Petition open, issue notice to the respondents, returnable on **2nd September, 2024**. Till the next date there shall be stay to the impugned order. In addition, to the usual mode of service private service is allowed.

(R. M. JOSHI, J.)

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